AGENDA
CITY COUNCIL STUDY SESSION
May 14, 2018
6:00 p.m.

City Hall Council Chambers

A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

1. City Council Discussion of Agenda Items and Questions

2. Miscellaneous

3. Discussion of Work Session Agenda Items as Time Permits

4. Adjourn

CITY COUNCIL MEETING
City of Brooklyn Center
May 14, 2018 **AGENDA**

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1. **Informal Open Forum with City Council – 6:45 p.m.**
–provides an opportunity for the public to address the Council on items which are not on the agenda. Open Forum will be limited to 15 minutes, it is not televised, and it may not be used to make personal attacks, to air personality grievances, to make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with citizens. Questions from the Council will be for clarification only. Open Forum will not be used as a time for problem solving or reacting to the comments made but, rather, for hearing the citizen for informational purposes only.

2. **Invocation – 7 p.m.**

3. **Call to Order Regular Business Meeting**
–The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

4. **Roll Call**

5. **Pledge of Allegiance**

6. **Approval of Agenda and Consent Agenda**
–The following items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the consent agenda and considered at the end of Council Consideration Items.

   a. Approval of Minutes
      1. April 16, 2018 – Board of Appeal and Equalization
      2. April 23, 2018 – Study/Work Session
      3. April 23, 2018 – Regular Session
      4. April 30, 2018 – Board of Appeal and Equalization Reconvene

   b. Licenses

   c. Resolution Authorizing Execution of Professional Services Agreement, Project Nos. 2018-01, 02, 03 and 04, Firehouse Park Area Street and Utility Improvements

   d. Agreements for Brooklyn Boulevard Corridor Project Phase 1

      1. Resolution Approving and Authorizing Execution of Cooperative

Construction Agreement for Brooklyn Boulevard Reconstruction and Streetscape Improvements, South of 49th Avenue to North of Bass Lake Road (CSAH 10), Project No. 2018-05 Between Hennepin County and City of Brooklyn Center

2. Resolution Approving and Authorizing Execution of Cooperative Construction Agreement for Brooklyn Boulevard Reconstruction and Streetscape Improvements, South of 49th Avenue to North of Bass Lake Road (CSAH 10), Project No. 2018-05 Between Minnesota Department of Transportation and City of Brooklyn Center

3. Resolution Approving and Authorizing Execution of Traffic Control Signal Maintenance Agreement No. 1030730 for Intersections at Trunk Highway No. 100 at County State Aid Highway (CSAH) No. 152 (Brooklyn Blvd) Between Minnesota Department of Transportation, Hennepin County and City of Brooklyn Center

4. Resolution Approving and Authorizing Execution of Limited Use Permit Agreement for Brooklyn Boulevard Reconstruction and Streetscape Improvements Within State Right-of-Way Between City of Brooklyn Center and Minnesota Department of Transportation

e. Resolution Authorizing Execution of Joint Powers Agreement with National Cooperative Purchasing Alliance

f. Resolution Amending the City's Personnel Rules and Regulations

g. Resolution Providing for the Competitive Negotiated Sale of $8,530,000 General Obligation Improvement and Utility Revenue Bonds, Series 2018A

7. Presentations/Proclamations/Recognitions/Donations

a. Resolution Expressing Recognition and Appreciation to City Clerk Sharon Knutson for 35 Years of Dedicated Service to the City of Brooklyn Center
Requested Council Action:
–Motion to adopt resolution.

b. Resolution Expressing Recognition and Appreciation of Rebecca Crass for Over 24 Years of Dedicated Service to the City of Brooklyn Center
Requested Council Action:
–Motion to adopt resolution.

c. Proclamation Declaring May 20-26, 2018, National Public Works Week in the City of Brooklyn Center
Requested Council Action:
–Motion to adopt resolution.

d. Resolution Recognizing May 13 Through May 19, 2018 as Police Week and May 15, 2018, as Police Officers Memorial Day
Requested Council Action:
–Motion to adopt resolution.

8. Public Hearings

a. An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Zoning Classification of Certain Land Generally Located in the Southeast Section of the City, Generally Situated Between Highway 100 to the West and North, Logan Avenue North to the East, and 57th Avenue North to the South, and Locally Identified as 1950 57th Avenue North
–This item was first read on April 9, 2018; published in the official newspaper on April 19, 2018; and is offered this evening for second reading and Public Hearing.
Requested Council Action:
–Motion to open Public Hearing.
–Take public input.
–Motion to close Public Hearing.
–Motion to adopt Ordinance.

1. Approval of the PUD Agreement Between the City and Ebert Inc. D/B/A Ebert Construction
Requested Council Action:
–Motion to approve PUD Agreement.

9. Planning Commission Items

a. Request to Use Certain Exterior Materials in the Renovation of the Former Kohl's Building (2501 County Road 10)
–The Planning Commission recommended unanimous (5-0) approval of this Application at its April 26, 2018, meeting.

1. Resolution Regarding the Recommended Disposition of the Request to Use Certain Exterior Materials in the Renovation of the Former Kohl's Building (2501 County Road 10), Submitted by HOM Furniture, Inc. (Located at 2501 County Road 10)
Requested Council Action:
–Motion to adopt resolution.

10. Council Consideration Items

a. Consideration of Type IV 6-Month Provisional Rental Licenses
1. 700 66th Ave N, Georgetown Park Townhouses
2. 3218 63rd Ave N
3. 5207 Boulder La
4. 5715 Emerson Ave N
5. 4201 Lakeside Ave #104

6. 5820 Logan Ave N
7. 7006 Morgan Ave N
8. Resolution Approving a Type IV 6-Month Provisional Rental License for 1510 69th Ave N
9. Resolution Approving a Type IV 6-Month Provisional Rental License for 3141 49th Ave N
10. Resolution Approving a Type IV 6-Month Provisional Rental License for 5420 Emerson Ave N
11. Resolution Approving a Type IV 6-Month Provisional Rental License for 6243 France Ave N
12. Resolution Approving a Type IV 6-Month Provisional Rental License for 6325 Kyle Ave N
13. Resolution Approving a Type IV 6-Month Provisional Rental License for 5642 Logan Ave N
14. Resolution Approving a Type IV 6-Month Provisional Rental License for 4501 Woodbine La

b. Resolution Approving the Cul-de-sac Memorandum of Understanding Between the City and SFG Net Lease TG Minneapolis, LLC and Authoring the Purchase of Excess Right-of-Way from the Minnesota Department of Transportation
Requested Council Action:
–Motion to adopt resolution.

11. Council Report

12. Adjournment

AGENDA
CITY OF BROOKLYN CENTER
CITY COUNCIL/ECONOMIC DEVELOPMENT AUTHORITY WORK SESSION
May 14, 2018
Immediately Following Regular City Council and EDA Meetings Which Start at 7:00 P.M.

City Hall Council Chambers

A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

ACTIVE DISCUSSION ITEMS

1. Tobacco Purchase Age 21 (Brooklyns Youth Council)
2. Park Dedication Fees
3. Median Safety Initiative
4. Schedule Special Joint Work Session Meetings with Planning Commission to Review 2040 Comprehensive Plan Update

PENDING LIST FOR FUTURE WORK SESSIONS

Later/Ongoing

1. Organic Composting and Native Bee Habitat (1-8-18 Study Session Discussion) – May
2. Comprehensive Plan Art Contest – May
3. Ordinance Review Process – May
4. Earle Brown Days Update
5. Beautification and Public Art Initiative - June

City Council Agenda Item No. 6a

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

BOARD OF APPEAL AND EQUALIZATION
APRIL 16, 2018
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center City Council met as the Board of Appeal and Equalization and the meeting was called to order by Mayor Tim Willson at 7:00 p.m.

2. ROLL CALL

Mayor Willson and Councilmembers Marquita Butler, April Graves, and Dan Ryan were present. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Community Development Director Meg Beekman, and Deputy City Clerk Rozlyn Tousignant.

Councilmember Kris Lawrence-Anderson was absent and excused.

Others present from Hennepin County were Josh Hoogland, Residential Appraisal Manager; Lisa Olmen, Commercial Appraiser; Robert Winge, Principal Residential Appraiser; and Joshua Whitney, Residential Appraiser.

3. LOCAL BOARD OF APPEAL AND EQUALIZATION (LBAE) CERTIFICATION FORM

The Local Board of Appeal and Equalization Certification form was signed by the Board Members present.

4. QUESTIONS REGARDING THE LOCAL BOARD OF APPEAL AND EQUALIZATION DUTIES

A PowerPoint Presentation on the 2017-2018 Assessment Year was provided by Hennepin County Appraiser Joshua Whitney.

There were no questions regarding the Local Board of Appeal and Equalization duties.

5. APPEARANCES BY TAXPAYERS WITH APPOINTMENTS

There were no taxpayers with appointments scheduled for this meeting.

6. APPEARANCES BY TAXPAYERS WITHOUT AN APPOINTMENT

Joseph Lampe, 2118 55th Avenue North addressed the Board to inquire about the valuation of

his property increasing. Mr. Lampe provided the Council with materials and shared that his valuation increase was much higher when compared with his neighbors.

Paul Oman, 5239 East Twin Lake Boulevard addressed the Board to appeal the valuation of his home.

John Geske, 5338 Emerson Avenue North addressed the Board to appeal the valuation of his home.

Mitchell Meyer, 6921 Logan Avenue North addressed the Board to appeal the valuation of his home.

7. CONSIDERATION OF WRITTEN APPEALS

The following written appeals were presented by the Assessor. The Assessors have met with each of the following appellants after a physical review of the property and market comparable; the following recommendations have been provided for the Board's consideration.

a) **Jacqueline Williams**
7141 Unity Avenue North
PID # 28-119-21-42-0015
Assessor's recommendation: A value reduction from $135,000 to $127,000.

b) **FTK Properties**
3300 County Road 10 North
PID # 03-118-21-14-0033
Assessor's recommendation: A value reduction from $2,234,000 to $1,950,000.

There was a motion by Councilmember Graves, seconded by Councilmember Butler to close the appeals process.

Motion passed unanimously.

8. RECONVENE MEETING DATE (MONDAY, APRIL 30, 2018)

9. RECESS

There was a motion by Councilmember Ryan, seconded by Councilmember Butler to recess the Local Board of Appeal and Equalization at 7:19 p.m. to April 30, 2018, 6:00 p.m.

Motion passed unanimously.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

STUDY SESSION
APRIL 23, 2018
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor Tim Willson at 6:00 p.m.

ROLL CALL

Mayor Tim Willson and Councilmembers April Graves (arrived at 6:03 p.m.), Kris Lawrence-Anderson, and Dan Ryan. Councilmember Marquita Butler was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, Director of Public Works Doran Cote, Assistant to the Community Development Director Michael Ericson, Planner and Zoning Administrator Ginny McIntosh, Director of Community Activities, City Attorney Troy Gilchrist, City Clerk Barbara Suciu, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

None.

MISCELLANEOUS

Mayor Willson stated that Friday is the Fireman's Relief Fund event and hopes to see everyone there.

DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

WILDLIFE MANAGEMENT UPDATE: CANADA GOOSE AND WILD TURKEY

This item was considered following 1st Saturday Marketplace.

1ST SATURDAY MARKETPLACE

City Manager Curt Boganey invited Assistant to the Community Development Director Michael Ericson to come forward and provide a presentation on this item.

Mr. Ericson provided background, presentation and answered questions on this item. He stated Mr. Lennie Chism is present this evening to answer any questions the City Council may have.

Mayor Willson stated the only question he had is whether there will be any City staff members there helping with the event and overseeing things. Mr. Boganey stated that can be arranged.

Mr. Chism stated he certainly encourages it and it would be great to have someone there who can answer the questions people may have about the City.

Mayor Willson asked if they have been in touch with others regarding vendor opportunities. He noted he spoke with someone in the Latina community earlier this morning, and they stated they would be interested in being a vendor. He stated he will get their contact information to Mr. Chism.

Mr. Chism stated he has reached out to some people already and noted there is social media awareness out there. He gave an overview on the locations within the community he will be reaching out to and stated he will make sure there is a lot of information out there for the entire community.

Councilmember Graves asked if they have something in place to capture the amount of vendor sales and people in attendance. Mr. Chism stated they are looking at Verifone to keep track of sales and gather data. He thinks having someone at the gate gathering info on where people are from by collecting their zip code or something similar is an idea he will explore.

Mr. Boganey asked how comfortable Mr. Chism feels about the event right now. Mr. Chism stated he is very comfortable with the current state of the event plans. He thanked Mr. Ericson for his help and stated the plans have come a long way from where they were at the beginning of the process. He thanked the City for opening these opportunities to encourage entrepreneurs and strengthening the community.

Councilmember Ryan stated he has a question regarding exhibitor booths, on page 6. He asked if it is correct that Brooklyn Center residents will not be charged for a booth rental. Mr. Chism stated that is correct. He explained they have yet to determine the amount others will be charged but want to make sure the fees are reasonable so people are encouraged to sign up and yet receive enough revenue to support the event.

Councilmember Ryan stated the space is being offered at no charge by Brookdale Health, besides a $2,000 deposit. Mr. Chism stated that is correct and noted they have been very generous. Councilmember Ryan stated he supports this item.

Councilmember Lawrence-Anderson asked if Mr. Chism has started a Facebook page and encouraged him to do so if he hasn't already. She stated there is an existing marketplace and noted it is pretty simple to set up a page.

Mr. Boganey stated some City staff are experienced in this and would be happy to help get these items set up. Mr. Boganey stated he heard at a conference last week that the return on using local businesses is up to 60%, but noted he needs to verify that information. He hopes to see that investment and return with Brooklyn Center.

Mayor Willson stated there is a clear City Council consensus to move forward with this item.

WILDLIFE MANAGEMENT UPDATE: CANADA GOOSE AND WILD TURKEY

Assistant City Engineer Andrew Hogg provided an over of this item and 3 options for the City to look at and decide which, if any, they want to pursue.

Mayor Willson stated he knows there is some debate on this topic and while he is comfortable moving forward with a similar ordinance like the one addressing deer hunting, he believes they should do more research into this topic. Mr. Hogg stated the City doesn't have any numbers on turkeys currently in the City but they can get that data and bring it back to the City Council.

Mayor Willson stated overall, he supports options 1, 2 and 3 together.

Councilmember Ryan stated he agrees and supports all the options as well.

Councilmember Lawrence-Anderson stated she supports the plan as well but supports options 1 and 2 and is concerned about the costs involved with option 3. She would like to see the data on the number of turkeys first.

Councilmember Graves stated she prefers option 2 and would like to get more information on this issue before proceeding with anything else.

It was the majority consensus of the City Council to have staff obtain the data requested on the number of turkeys in Brooklyn Center and bring this item back to the City Council for review.

ADJOURN STUDY SESSION TO INFORMAL OPEN FORUM WITH CITY COUNCIL

Mayor Willson adjourned the Study Session to Informal Open Forum at 6:45 p.m.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

REGULAR SESSION
APRIL 23, 2018
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

CALL TO ORDER INFORMAL OPEN FORUM

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor Tim Willson at 6:45 p.m.

ROLL CALL

Mayor Tim Willson and Councilmembers April Graves, Kris Lawrence-Anderson, and Dan Ryan were present. Councilmember Marquita Butler was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Director of Public Works Doran Cote, City Engineer Andrew Hogg, Assistant to the Community Development Director Michael Ericson, Planner and Zoning Administrator Ginny McIntosh, Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

Mayor Tim Willson opened the meeting for the purpose of Informal Open Forum.

Diane Sannes, 7006 Willow Lane, addressed the City Council. She stated the Prayer Breakfast is coming up, noted she is sad the Surly Darkness Days event will not be continuing, and stated she is happy that the outdoor market is going to happen and hopes the City continues to support that.

Mark Rishoud, 718 and 712 68th Lane, addressed the City Council. He stated he owns two properties that are currently vacant and he is being billed by the City for storm water and street lights which isn't being used. City Manager Curt Boganey stated he will follow up with Mr. Rishoud regarding this issue and they will figure it out.

Anna Cooper, 3206 61st Avenue North, addressed the City Council. She stated she reviewed the past documents on the topic of backyard chickens and wanted to present updated information for the City Council to review. She stated there are 80 people in their group now that support backyard chickens. Mayor Willson accepted the documents and stated this issue will go through a process and the next step is the Housing Commission to review the topic and conduct a study.

Jeremy Krulikowski, 6145 Camden Avenue, addressed the City Council. He asked what are the steps for the process of having the backyard chicken ordinance reviewed. Mr. Boganey stated they should sign up for notifications on the City website and look at the meeting agendas and meeting schedules to see when the topic comes up. Then they should plan to attend that meeting.

Councilmember Lawrence-Anderson moved and Councilmember Graves seconded to close the Informal Open Forum at 6:59 p.m.

Motion passed unanimously.

2. INVOCATION

Councilmember Lawrence-Anderson requested a moment of silence regarding the month of April being Organ Donation Month. She wanted to honor those waiting for these life-saving procedures as the Invocation.

3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor Tim Willson at 7:00 p.m.

4. ROLL CALL

Mayor Tim Willson and Councilmembers April Graves, Kris Lawrence-Anderson, and Dan Ryan were present. Councilmember Marquita Butler was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Director of Public Works Doran Cote, Deputy Director of Public Works Mike Marsh, Assistant to the Community Development Director Michael Ericson, Community Development Director Meg Beekman, Planner and Zoning Administrator Ginny McIntosh, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to approve the Agenda and Consent Agenda, and the following consent items were approved:

6a. APPROVAL OF MINUTES

1. March 26, 2018, Legislative Session with Congressman Ellison
2. April 4, 2018, Joint Session with Commissions
3. April 9, 2018, Study/Work Session
4. April 9, 2018, Regular Session
5. April 9, 2018, Work Session

6b. LICENSES

MECHANICAL

Absolute Mechanical LLC	7338 Ohms Lane, Edina
All Systems Mechanical	2282 Terminal Rd, Roseville

Bedrock HVAC LLC	3208 94th Ave North, Brooklyn Park
CenterPoint Energy	6161 Golden Valley Rd, Golden Valley
Comfort Solutions Heating & Cooling	11 1st St NW, Osseo
Cool Air Mechanical, Inc.	1544 134th Ave NE, Ham Lake
Corval Constructors, Inc.	1633 Eustis Street, St. Paul
Ditter Cooling & Heating	820 Tower Drive, Medina
Dwayne Heins Plumbing and Heating	13140 Basswood LN, Rogers
Genz-Ryan Plbg & Htg Co	2200 W Hwy 13, Burnsville
Go Fetsch Mechanical LLC	565 Shoreview Park Rd, Shoreview
Hoffman Refrigeration & Heating	5660 Memorial Ave N, Stillwater
Infinity Heating & Air Conditioning LLC	1017 Meadowwood Dr., Brooklyn Park
J-Berd Mechanical Contractors, Inc.	PO Box 7308, Saint Cloud
McDowall Company	PO Box 606, Waite Park
Metropolitan Mechanical Contractors	7450 Flying Cloud Drive, Eden Prairie
Quality Refrigeration	6237 Penn Ave S, #100, Richfield
Ray Welter Htg Co	4637 Chicago Ave S, Minneapolis
South-Town Refrigeration	6325 Welcome Ave N #200, Brooklyn Park
St. Cloud Refrigeration DBA SCR, Inc.	604 Lincoln Ave NE, St. Cloud
Wenzel Heating & A/C	4145 Old Sibley Mem Hwy, Eagan

PUBLIC DANCE

Jambo Africa Inc. dba: Jambo Africa Restaurant and Bar	1601 Freeway Blvd

RENTAL

INITIAL (TYPE III – one-year license)

Lynwood Pointe Apartments 6915-25 Humboldt Avenue N	Steven Scott Management

INITIAL (TYPE II – two-year license)

3614-16 50th Avenue N	William George Lang

RENEWAL (TYPE III – one-year license)

5529 Aldrich Drive N	Betty Scully
7143 France Avenue N	Yi Lin/Khai Hong Lim Properties
6331 Indiana Avenue N	Invitation Homes
7243 Riverdale Road	Invitation Homes

RENEWAL (TYPE II – two-year license)

509 61st Avenue N	Tim Daniel
1900 Brookview Drive	Invitation Homes
5160 Drew Avenue N	Cosco Properties LLC c/o MSP Home Rental
6349 Halifax Drive	Qjang Kevin Fang
5518 Irving Avenue N	Tsongna Yang
5321 James Avenue N	Tou Vue
4207 Lakeside Avenue, #224	Marina Feldman

4207 Lakeside Avenue, #226	The Beach Condominium Association
5814 Pearson Drive	Invitation Homes
6413 Regent Avenue N	Tim Xiong
6130 Scott Avenue N	Invitation Homes
6706 Toledo Avenue N	Stephen Burson
6926 West River Road	Mark Pivec
6605 Xerxes Place N	Ryan Bernard

RENEWAL (TYPE I – three-year license)

4225 66th Avenue N	Sesan Ogunniran
5350 71st Circle	Ali Sajjad/786 Homes LLC
6009 Aldrich Avenue N	Kevin Motarjemi
5742 Fremont Avenue N	Bruce Alan Goldberg
1519 Humboldt Place N	ShoeMiller Properties LLC
3019 Mumford Road	Morris Matthews
6242 Scott Avenue N	Cosco Properties LLC c/o MSP Home Rental

SIGNHANGER

Resolution Graphics	3770 Dunlap St. North, Arden Hills
Sign Source Inc.	7660 Quattro Drive, Chanhassen
Signart Company	2933 Mondovi Rd, Eau Claire
Signation Sign Group	6840 Shingle Creek Pkwy

TRANSIENT ACCOMMODATIONS - LEVEL 1

Best Western Plus	2050 Freeway Blvd
Seth Oliver	6300 Earle Brown Dr.
Brooklyn Hotel Partners, LLC	

6c. RESOLUTION NO. 2018-85 ACCEPTING BID AND AWARDING A CONTRACT, IMPROVEMENT PROJECT NOS. 2018- 01, 02, 03 AND 04, FIREHOUSE PARK AREA STREET, STORM DRAINAGE AND UTILITYIMPROVEMENTS

6d. RESOLUTION NO. 2018-86 DESIGNATING 2018 PLANTING LIST OF ALLOWABLE BOULEVARD TREE SPECIES

6e. RESOLUTION NO. 2018-87 ACCEPTING BID AND AWARDING A CONTRACT, IMPROVEMENT PROJECT NO. 2016-09, 69TH AVENUE GREENWAY FENCE REPLACEMENT IMPROVEMENTS

6f. RESOLUTION NO. 2018-88 APPROVING FINAL PLAT FOR MOHS ADDITION

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7a. PROCLAMATION DECLARING APRIL 27, 2018, TO BE ARBOR DAY AND MAY 2018 TO BE ARBOR MONTH IN BROOKLYN CENTER

Mayor Willson read in full a Resolution Declaring April 27, 2018, to be Arbor Day and May 2018 to be Arbor Month in Brooklyn Center.

Councilmember Graves moved and Councilmember Lawrence-Anderson seconded to accept the proclamation declaring April 27, 2018, to be Arbor Day and May 2018 to be Arbor Month in Brooklyn Center.

Mr. Boganey stated there was a donation from the American Legion and the Sons of the American Legion and noted members of the Brooklyn Center Rotary will be planting three to four trees in Centennial Park in this honor.

Motion passed unanimously.

7b. RESOLUTION NO. 2018-89 RECOGNIZING THE DESIGNATION OF BROOKLYN CENTER AS A TREE CITY USA FOR THE TWENTY-SIXTH CONSECUTIVE YEAR

Mayor Willson read in full a Resolution Recognizing the Designation of Brooklyn Center as a Tree City USA for the Twenty-Sixth Consecutive Year.

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION No. 2018-89, Recognizing the Designation of Brooklyn Center as a Tree City USA for the Twenty-Sixth Consecutive Year.

Motion passed unanimously.

8. PUBLIC HEARINGS

- None.

9. PLANNING COMMISSION ITEMS

9a. PLANNING COMMISSION APPLICATION NO. 2018-004, SUBMITTED BY STEPHANIE ALSTEAD OF BWBR, REQUESTING APPROVAL OF A SITE AND BUILDING PLAN FOR A DRY ROOM ADDITION (6800 SHINGLE CREEK PARKWAY)

Planner and Zoning Administrator Ginny McIntosh provided an overview of Planning Commission Application No. 2018-004 and advised the Planning Commission recommended approval of the applications at its April 12, 2018 meeting.

9a1. RESOLUTION NO. 2018-90 REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-

004, SUBMITTED BY STEPHANIE ALSTEAD OF BWBR, REQUESTING APPROVAL OF A SITE AND BUILDING PLAN FOR A DRY ROOM ADDITION (6800 SHINGLE CREEK PKWY)

Councilmember Ryan moved and Councilmember Graves seconded to adopt RESOLUTION No. 2018-90, Approving Planning Commission Application No. 2018-004, Submitted by Stephanie Alstead of BWBR, Requesting Approval of a Site and Building Plan for a Dry Room Addition (6800 Shingle Creek Parkway).

Motion passed unanimously.

9b. PLANNING COMMISSION APPLICATION NO. 2018-005, SUBMITTED BY NEAL THAO OF NOBLE ACADEMY, REQUESTING APPROVAL OF A SITE PLAN FOR A PARKING LOT AND DRIVEWAY EXPANSION (6201 NOBLE AVENUE NORTH)

Planner and Zoning Administrator Ginny McIntosh provided an overview of Planning Commission Application No. 2018-005 and advised the Planning Commission recommended approval of the applications at its April 12, 2018 meeting.

Councilmember Lawrence-Anderson asked how they plan enforce the drive thru lane to only be for buses. Ms. McIntosh stated signage will need to be posted to state just that.

Mr. Boganey asked applicant and Superintendent Neo Thao what the name of the school means. Mr. Thao stated it means "Nom Pang" in Hmong, and it helps distinguish between the two schools.

Mayor Willson stated Brooklyn Center Alliance for Youth is putting together their annual survey and he will suggest that they reach out to Mr. Thao to see if his two schools would like to participate in that. Mr. Thao responded that would be great.

Councilmember Ryan asked how many students they anticipate enrolling at the new school. Mr. Thao stated if all the classes are full, there will be about 530 students and they will have 10-12 buses.

9b1. RESOLUTION NO. 2018-91 REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-005, SUBMITTED BY NEAL THAO OF NOBLE ACADEMY, REQUESTING SITE PLAN APPROVAL FOR A PARKING LOT AND DRIVEWAY EXPANSION (6201 NOBLE AVENUE NORTH)

Councilmember Graves moved and Councilmember Ryan seconded to adopt RESOLUTION No. 2018-91, Approving Planning Commission Application No. 2018-005, Submitted by Neal Thao of Noble Academy, Requesting Site Plan Approval for a Parking Lot and Driveway Expansion (6201 Noble Avenue North).

Motion passed unanimously.

10. COUNCIL CONSIDERATION ITEMS

- None.

11. COUNCIL REPORT

Councilmember Ryan reported on his attendance at the following and provided information on the following upcoming events:

- April 16, 2018: Board of Appeal and Equalization Meeting
- April 28, 2018: Annual Police Citizen Award Ceremony
- April 19, 2018: Metro City Police
- April 22, 2018: Annual Cleanup for the parks was cancelled due to the snow but bags and gloves were provided to cleanup when you are able
- April 24, 2018: MAC Meeting

Councilmember Lawrence-Anderson reported on her attendance at the following and provided information on the following upcoming events:

- April 22, 2018: Park Clean up in Orchard Park
- April 24, 2018: MAC Meeting

Councilmember Graves reported on her attendance at the following and provided information on the following upcoming events:

- April 16, 2018: Board of Appeal and Equalization Meeting
- April 17, 2018: Police Citizen Award Ceremony
- April 20, 2018: Spoke on a panel for Patrick Henry

Mayor Willson reported on his attendance at the following and provided information on the following upcoming events:

- April 12, 2018: FBI Academy Acceptance and First Meeting
- April 16, 2018: Board of Appeal and Equalization Meeting
- April 13, 2018: City Manager Meeting
- April 18, 2018: Brooklyn Bridge Alliance for Youth Board Meeting
- April 19, 2018: Second FBI Academy Meeting
- April 21, 2018: Eagle Scout Court of Honor for Michael Richard Johnson
- April 23, 2018: Emancipation March

12. ADJOURNMENT

Councilmember Graves moved and Councilmember Lawrence-Anderson seconded adjournment of the City Council meeting at 7:46 p.m.

Motion passed unanimously.

City Council Agenda Item No. 6b

COUNCIL ITEM MEMORANDUM

DATE: May 8, 2018

TO: Curt Boganey, City Manag

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Rozlyn Tousignant, Deputy City Clerk

SUBJECT: Licenses for City Council Approval

Recommendation:
It is recommended that the City Council consider approval of the following licenses on May 14, 2018.

Background:
The following businesses/persons have applied for City licenses as noted. Each business/person has fulfilled the requirements of the City Ordinance governing respective licenses, submitted appropriate applications, and paid proper fees. Applicants for rental dwelling licenses are in compliance with Chapter 12 of the City Code of Ordinances, unless comments are noted below the property address on the attached rental report.

AMUSEMENT DEVICE

Metro Coin of Minnesota, Inc.	6301 Shingle Creek Parkway

FIREWORKS PERMANENT

American Promotional Events dba: TNT Fireworks	3245 Co Rd No 10
American Promotional Events dba: TNT Fireworks	6100 Shingle Creek Parkway

MECHANICAL

C & M Heating & Air Conditioning	13862 Wintergreen Street, Andover, MN 55304
Centraire Htg & A/C, Inc.	7402 Washington Ave S, Eden Prairie, MN 55344
DJ's Heating & Air Cond	6060 LaBeaux Ave NE, Albertville, MN 55301
Do Pham Inc.	3455 124th Cir. NE, Blaine, MN 55449
Easco Plumbing & Heating	7965 Pioneer Trail, Loretto, MN 55357
Harris Companies	909 Montreal Circle, St. Paul, MN 55102
Louis DeGidio Services, Inc.	21033 Heron Way, Lakeville, MN 55044
McChesney Heating & Air	8201 175th Ave SE, Becker, MN 55308
Modern Heating & A/C	2318 First Street NE, Minneapolis, MN 55418
The McBride Company Inc dba: Metro Air	16980 Welcome Ave, Prior Lake, MN 55372
Yale Mechanical	220 W. 81st Street, Bloomington, MN 55420

COUNCIL ITEM MEMORANDUM

MOTOR VEHICLE DEALERSHIP

BB Motor Sales, LLC dba: Luther Brookdale Chevrolet	6701 Brooklyn Blvd
BB Motor Sales, LLC dba: Luther Brookdale Buick GMC	4301 68th Ave N
BCV Motors, LLC dba: Luther Brookdale Volkswagen	6801 Brooklyn Blvd
Brooklyn Park Motors, Inc. dba: Luther Brookdale Toyota	6700 Brooklyn Blvd
Metro Brookdale LLC dba: Luther Brookdale Mazda Mitsubishi	7235 Brooklyn Blvd
R.L. Brookdale Motors, Inc. dba: Luther Brookdale Honda	6800 Brooklyn Blvd

RENTAL

See attached report.

SIGN HANGER

Archetype Sign Makers	9635 Girard Ave S, Bloomington, MN 55431
SDDI Sign Systems	17125 Adelmann St SE, Prior Lake, MN 55372

TRANSIENT ACCOMMODATIONS – LEVEL 1

Country Inn & Suites	2550 Freeway Blvd
DoubleTree by Hilton Minneapolis North	2200 Freeway Blvd

COUNCIL ITEM MEMORANDUM

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Rental Licenses for Council Approval on May 14, 2018

Property Address	Dwelling Type	Renewal or Initial	Owner	Property Code Violations	License Type	Police CFS *	Final License Type **	Previous License Type ***	Unpaid Utilities	Unpaid Taxes
5808 Fremont Ave N	Single Family	Initial	Chen Zhou	0	I	N/A	II		OK	OK
5420 Girard Ave N	Single Family	Initial	Scott Sorum	6	III	N/A	III		OK	OK
819-21 55th Ave N	Two Family (2)	Renewal	Stephanie Statz	5 2.5/unit	III	0	III	II	OK	OK
3715 69th Ave N	Two Family (2)	Renewal	Christian Knutson	0	I	0	I	I	OK	OK
5245-47 Drew Ave N	Two Family (2)	Renewal	Mai Xiong	7 3.5/unit	II	0	II	III	OK	OK
5200 63rd Ave N	Single Family	Renewal	Roger Bonny	3	II	0	II	III	OK	OK
1207 65th Ave N	Single Family	Renewal	Tech Ung	0	I	0	I	II	OK	OK
3300 65th Ave N	Single Family	Renewal	Elizabeth Dolomengi	5	III	0	III	IV	OK	OK
5330 Girard Ave N	Single Family	Renewal	Executive Realty	2	II	0	II	I	OK	OK
6014 Girard Ave N	Single Family	Renewal	Douglas Allen Wahl	0	I	1	I	IV	OK	OK
4906 Howe La	Single Family	Renewal	Cosco Properties LLC	8	III	0	III	IV	OK	OK
5755 Humboldt Ave N	Single Family	Renewal	Toan Truong	7	III	0	III	I	OK	OK
6406 Indiana Ave N	Single Family	Renewal	Willaim Coleman	2	0	0	0	I	OK	OK
4201 Lakeside Ave #302	Single Family	Renewal	Xavier G. Haro	0	I	0	I	I	OK	OK
4207 Lakeside Ave #336	Single Family	Renewal	Tamara Carlson	1	I	0	I	II	OK	OK
5315 Logan Ave N	Single Family	Renewal	Kirsten & Joel Carson	0	I	0	I	I	OK	OK
6907 Logan Ave N	Single Family	Renewal	Paul Gathumbi (Missing 1 ARM meeting)	2	II	0	III	III	OK	OK
5559 Lyndale Ave N	Single Family	Renewal	Dragon Property Management	7	III	0	III	I	OK	OK
2701 Ohenry Rd	Single Family	Renewal	Sherman Yih Feng Kho	2	II	0	II	II	OK	OK
6925 Regent Ave N	Single Family	Renewal	Travis James Senenfelder	5	III	0	III	III	OK	OK
6830 Scott Ave N	Single Family	Renewal	Invitiation Homes	0	I	0	I	IV	OK	OK

* CFS = Calls For Service for Renewal Licenses Only (Initial Licenses are not applicable to calls for service and will be listed N/A.)

** License Type Being Issued Type I = 3 Year Type II = 2 Year Type III = 1 Year

*** Initial licenses will not show a previous license type and qualify at best for a TYPE II license

All properties are current on City utilities and property taxes

City Council Agenda Item No. 6c

COUNCIL ITEM MEMORANDUM

DATE: May 8, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran M. Cote, P.E., Director of Public Works

FROM: Mike Albers, P.E., City Engineer

SUBJECT: Resolution Authorizing Execution of Professional Services Agreement, Project Nos. 2018-01, 02, 03 and 04, Firehouse Park Area Street and Utility Improvements

Recommendation:
It is recommended that the City Council consider approval of the resolution authorizing execution of a Professional Services Agreement for the Firehouse Park Area Street and Utility Improvements, Project Nos. 2018-01, 02, 03 and 04.

Background:
On December 11, 2017, the City Council ordered the improvements and directed staff to prepare plans and specifications for the Firehouse Park Area Street and Utility Improvements, Project Nos. 2018-01, 02, 03 and 04. On April 23, 2018, the City Council awarded a contract to Ryan Contracting Company to construct the improvements. City staff solicited a proposal from Loucks Associates to complete the construction surveying services for the project. Loucks Associates is recommended to provide the needed professional services and is available to start immediately to proceed with the construction surveying work.

Budget Issues:
The Firehouse Park Area Street and Utility Improvements is identified in the City's Capital Improvement Program for 2018. Funding sources for the project are budgeted from sources as described in the project feasibility report previously accepted by the City Council on November 13, 2017. The total estimated budget including construction costs, contingencies, administration, engineering and legal is $10,491,396.97. The contract with Loucks Associates for the construction surveying services amounts to $125,000.

Strategic Priorities:
- Key Transportation Investments

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF PROFESSIONAL SERVICES AGREEMENT, PROJECT NO. 2018-01, 02, 03 AND 04, FIREHOUSE PARK AREA STREET AND UTILITY IMPROVEMENTS

WHEREAS, the City's Capital Improvement Program identifies the Firehouse Park Area neighborhood to be reconstructed in 2018; and

WHEREAS, the Brooklyn Center City Council, by Resolution No. 2017-69, directed the preparation of a feasibility report regarding proposed improvements to the streets, storm drainage system and public utilities in the Firehouse Park Area neighborhood; and

WHEREAS, the Brooklyn Center City Council, by Resolution No. 2017-204, ordered Improvement Project Nos. 2018-01, 02, 03 and 04, and authorized the preparation of plans and specifications for the Firehouse Park Area Street and Utility Improvements; and

WHEREAS, a professional services agreement has been negotiated with Loucks Associates to provide the professional services needed to perform the construction surveying services on said project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the Mayor and City Manager are hereby authorized to execute an agreement with Loucks Associates in the amount of $125,000 to provide professional services for the Firehouse Park Area Street and Utility Improvements.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made on the 14th day of May, 2018, between the **CITY OF BROOKLYN CENTER**, 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430 ("City") and **LOUCKS ASSOCIATES,** 7200 Hemlock Lane, Suite 300, Maple Grove, MN 55369 ("Consultant").

Preliminary Statement

The purpose of this Agreement is to set forth terms and conditions for the provision of professional engineering services by the Consultant for the City.

The City and Consultant agree as follows:

1. **Consultant's Services**. The Consultant agrees to provide professional services as described in Exhibit A, Scope of Work. Consultant agrees to use the City's standard specifications in any bidding documents prepared under this Agreement. The requirements of this section may be waived by the City if the City Engineer determines that they are not necessary for the successful completion of the project. Consultants requesting a requirement to be waived must have written authorization from the City Engineer.

2. **Time for Performance of Services**. The Consultant will endeavor to perform the services outlined in the work program within the prescribed days from the date of the contract award. Any changes in this schedule must be approved in writing by the City.

3. **Compensation for Services**. City agrees to pay the Consultant for services as described in Exhibit A, attached and made a part of this Agreement and may be amended from time to time by mutual agreement by City and Consultant.

4. **Method of Payment**. The Consultant must submit itemized bills for services provided to the City on a monthly basis. Bills submitted will be paid in the same manner as other claims made to the City.

   For work reimbursed on an hourly basis, the Consultant must indicate for each employee, his or her classification, the number of hours worked, rate of pay for each employee, a computation of amounts due for each employee, the total amount due, the original contracted amount ($125,000), the current requested amount and the total amount. Consultant must verify all statements submitted for payment in compliance with Minnesota Statutes Sections 471.38 and 471.391. For reimbursable expenses, the Consultant must provide such documentation as reasonably required by the City.

5. **Audit Disclosure**. The Consultant must allow the City or its duly authorized agents reasonable access to such of the Consultant's books and records as are pertinent to all services provided under this Agreement.

Any reports, information, data, etc. given to, or prepared or assembled by the Consultant, under this Agreement which the City requests to be kept confidential must not be made available to any individual or organization without the City's prior written approval. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant will become the property of the City upon termination of this Agreement, but Consultant may retain copies of such documents as records of the services provided and may reuse standard portions of such documents in the normal course of its business.

6. **Term**. The term of this Agreement will be from April 24, 2018, through final project closeout by the City Council and receipt of all Consultant deliverables, the date of signature by the parties notwithstanding. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the terms and conditions as herein stated.

7. **Termination**. This Agreement may be terminated by City by seven (7) day's written notice to Consultant delivered to the address written above. Upon termination under this provision, the Consultant will be paid for services rendered and reimbursable expenses until the effective date of termination.

8. **Subcontractor**. The Consultant must not enter into subcontracts for any of the services provided for in this Agreement without the express written consent of the City.

9. **Independent Contractor**. At all times and for all purposes hereunder, the Consultant is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Consultant an employee of the City.

10. **Assignment**. Neither party will assign this Agreement, nor any interest arising herein, without the written consent of the other party.

11. **Services Not Provided For**. No claim for services furnished by the Consultant not specifically provided for herein will be honored by the City.

12. **Severability**. The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision will not affect the remaining provisions of the Agreement.

13. **Entire Agreement**. The entire Agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions or waivers of the provisions of this

Agreement will be valid only when expressed in writing and duly signed by the parties unless otherwise provided herein.

14. **Compliance with Laws and Regulations**. In providing services hereunder, the Consultant must abide by all statutes, ordinances, rules and regulations pertaining to the provision of services to be provided. Any violation will constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.

15. **Equal Opportunity**. During the performance of this contract, the Consultant must not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability or age. The Consultant must post in places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Consultant must incorporate the foregoing requirements of this paragraph in all of its subcontracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work.

16. **Waiver**. Any waiver by either party of a breach of any provisions of this Agreement will not affect, in any respect, the validity of the remainder of this Agreement.

17. **Indemnification**. The Consultant must indemnify and hold harmless the City, its employees and agents, for all claims, damages, losses and expenses, including but not limited to attorney's fees which they may suffer or for which they may be held liable, as a result of, and to the extent of, the negligent or wrongful acts of the Consultant, his or her employees or anyone else for whom he or she is legally responsible in the performance of this Agreement.

18. **Insurance**. During the term of this Agreement, Consultant must maintain a general liability insurance policy with limits of $1,500,000 for each occurrence and $2,000,000 aggregate, for both personal injury and property damage.

    This policy shall name the City as an additional insured for the services provided under this Agreement and shall provide, as between the City and the Consultant, that the Consultant's coverage shall be the primary coverage in the event of a loss. If the Consultant is providing either architectural or engineering services, the Consultant must also maintain during the term of this Agreement a professional liability insurance policy with the same limits as for general liability. A certificate of insurance on the City's approved form which verifies the existence of these insurance coverages must be provided to the City before work under this Agreement is begun.

19. **Governing Law.** This Agreement will be controlled by the laws of the State of Minnesota.

20. **Whole Agreement.** This Agreement embodies the entire Agreement between the parties including all prior understanding and agreements, and may not be modified except in writing signed by all parties.

Executed as of the day and year first written above.

CITY OF BROOKLYN CENTER

By:_____
Tim Willson, Mayor

Date:_____

By:_____
Cornelius Boganey, City Manager

Date:_____

LOUCKS ASSOCIATES

By:_____

Its: Contracts Officer

Date:_____

City Council Agenda Item No. 6d

COUNCIL ITEM MEMORANDUM

DATE: May 8, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran M. Cote, P.E., Director of Public Works

FROM: Mike Albers, P.E., City Engineer

SUBJECT: Agreements for Brooklyn Boulevard Corridor Project Phase 1:

Resolution Approving and Authorizing Execution of Cooperative Construction Agreement for Brooklyn Boulevard Reconstruction and Streetscape Improvements, South of 49th Avenue to North of Bass Lake Road (CSAH 10), Project No. 2018-05 Between Hennepin County and City of Brooklyn Center

Resolution Approving and Authorizing Execution of Cooperative Construction Agreement for Brooklyn Boulevard Reconstruction and Streetscape Improvements, South of 49th Avenue to North of Bass Lake Road (CSAH 10), Project No. 2018-05 Between Minnesota Department of Transportation and City of Brooklyn Center

Resolution Approving and Authorizing Execution of Traffic Control Signal Maintenance Agreement No. 1030730 for Intersections at Trunk Highway (TH) 100 at County State Aid Highway (CSAH) No. 152 (Brooklyn Blvd) Between Minnesota Department of Transportation, Hennepin County and City of Brooklyn Center

Resolution Approving and Authorizing Execution of Limited Use Permit Agreement for Brooklyn Boulevard Reconstruction and Streetscape Improvements Within State Right-of-Way Between City of Brooklyn Center and Minnesota Department of Transportation

Recommendation:
It is recommended that the City Council consider approval of the attached resolutions approving and authorizing execution of a Cooperative Construction Agreement with the Hennepin County, a Cooperative Construction Agreement with the Minnesota Department of Transportation (MnDOT), a Traffic Control Signal Maintenance Agreement with MnDOT and Hennepin County and a Limited Use Permit Agreement with MnDOT for the Reconstruction of Brooklyn Boulevard (CSAH 152) from south of 49th Avenue to north of Bass Lake Road (CSAH 10), Improvement Project No 2018-05.

COUNCIL ITEM MEMORANDUM

Background:
The City completed the Brooklyn Boulevard Corridor Study in 2013 to guide the reconstruction and redevelopment of this corridor. On May 9, 2016, the City Council directed staff to proceed with the preliminary design, environmental documentation, easement acquisition and final design work for the Brooklyn Boulevard Corridor Project Phase 1 (49th Avenue to Bass Lake Road), Project No. 2018-05. This project is scheduled to be constructed in 2018.

The proposed reconstruction and streetscape improvements will improve roadway safety, enhance traffic operations, reduce access points and provide improved bicycle and pedestrian facilities for a 1.4-mile segment of CSAH 152 in Brooklyn Center between 49th Avenue and CSAH 10. The project will enhance bicycle and pedestrian travel by adding a trail, improving sidewalks, transit stops, adding streetscaping and landscaping and improving the functionality of intersections with modified turn lanes.

Cooperative Construction Agreement with the Hennepin County
To memorialize Hennepin County's participation, the County has prepared a Cooperative Construction Agreement that details the cost and maintenance responsibilities of each party (see attached). The agreement specifies that the estimated amount that the County will reimburse the City as its share of the project construction costs is approximately $2.1 million which includes approximately $1.6 million for construction costs, $260,000 for right-of-way costs, $140,000 for utility undergrounding costs and $120,000 for Hennepin County supplied traffic signal equipment and trees. This agreement is typical of past joint Hennepin County partnership projects (e.g. Bass Lake Road Regional Trail and Streetscape Project and County Road 57 Streetscape Project).

The City also has a Cooperative Agreement with Hennepin County for cost participation for the preliminary planning, design and construction administration of the Brooklyn Boulevard Reconstruction and Streetscape Improvements up to $809,000.

Cooperative Construction Agreement with MnDOT
A portion of the project is located within the MnDOT TH 100 right-of-way. MnDOT has prepared a Cooperative Construction Agreement that details the cost and maintenance responsibilities of each party (see attached). All work and inspection will be provided by the City under project contract and will be open to review and inspection by MnDOT.

Traffic Control Signal Maintenance Agreement with MnDOT and Hennepin County
MnDOT has prepared the attached agreement to provide for the operation and maintenance responsibilities of the signal system at the intersections of TH 100 at CSAH 152 north and south ramps. As part of the proposed agreement, the City will be responsible for the cost and application to secure an adequate power supply to the signal. Upon completion of this project, the City will thereafter pay all monthly electrical service expenses necessary to operate the signal system. The City would also be required to relamp and maintain the LED street lights mounted on the signal poles, replace the signal systems LED indication lights, clean the signal systems and luminaire mast arm extensions and paint and maintain the pedestrian crosswalk markings. These agreement prescriptions are standard and typical for most traffic signal systems throughout the City.

COUNCIL ITEM MEMORANDUM

Limited Use Permit Agreement with MnDOT

A portion of the project is located within the MnDOT TH 100 right-of-way. In accordance with MnDOT policy, a limited use permit is required to construct, maintain and operate a sidewalk and trial that fall within State right-of-way. Once constructed, the trail and sidewalk improvements included under this project will remain the responsibility of the City. The attached limited use permit outlines the responsibilities of each party. The conditions of the permit are straight forward, standard and complimentary to City practices that are already in place.

The agreements are currently being reviewed by the City Attorney, Hennepin County and MnDOT. It is anticipated that final agreements will be completed and ready for final execution by the end of May.

Budget Issues:

The Brooklyn Boulevard Corridor Project is identified in the City's Capital Improvement Program (CIP) and the updated preliminary project cost estimate is approximately $15,000,000. Federal funding through the Surface Transportation Program has been awarded to the City and County for this project in the amount of up to $7,420,000 and the remaining project costs are to be funded from local funding as part of the required cost share. The local partnership and proportions are anticipated to include Hennepin County funding, Minneapolis funding, Three Rivers Park District funding and City funding.

The Hennepin County share of project costs is estimated at $2.9 million with includes $2.1 million for construction of the project and $809,000 for the design and administration of the project. The Minneapolis share of project costs is estimated at and shall not to exceed $110,000, unless agreed to in writing by Minneapolis. Three Rivers Park District share of project costs is estimated at and shall not to exceed $10,000.

Strategic Priorities:

- Key Transportation Investments

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF COOPERATIVE CONSTRUCTION AGREEMENT FOR BROOKLYN BOULEVARD RECONSTRUCTION AND STREETSCAPE IMPROVEMENTS, SOUTH OF 49TH AVENUE TO NORTH OF BASS LAKE ROAD (CSAH 10), PROJECT NO. 2018-05 BETWEEN HENNEPIN COUNTY AND CITY OF BROOKLYN CENTER

WHEREAS, the City of Brooklyn Center ("City") and Hennepin County ("County") have been working cooperatively to advance the project to provide streetscape, trail, lighting and general roadway improvements to the Brooklyn Boulevard Corridor from 49th Avenue to north of Bass Lake Road; and

WHEREAS, the project is multi-jurisdictional, involving the Minnesota Department of Transportation, Hennepin County, City of Minneapolis, Three Rivers Park District and the City; and

WHEREAS, the City received a federal aid grant in the amount of $7,420,000 to participate in the Brooklyn Boulevard Corridor improvements, programmed for 2018 construction; and

WHEREAS, the County has designated $3,831,000 as part of the County's Capital Improvement Program to participate in the Brooklyn Boulevard Corridor improvements; and

WHEREAS, the City's Capital Improvement Program identifies the Brooklyn Boulevard roadway and streetscape improvements from 49th Avenue to Bass Lake Road to be constructed in 2018; and

WHEREAS, preliminary planning and design of the project have commenced with the City taking the lead as the project manager; and

WHEREAS, the City and County desire to set forth their various construction, funding, operation and maintenance responsibilities in a Cooperative Construction Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that:

1. The City enter into Hennepin County Agreement No. PW 13-02-18 with Hennepin County for the following purposes:

   To outline maintenance responsibilities and provide for payment by the County to the City for their shares of the costs of the Brooklyn Boulevard (CSAH 152) Reconstruction and Streetscape Improvements, City Project Number 2018-05, County Project Number 1519.

RESOLUTION NO._____

2. The provisions of the draft Agreement are hereby accepted and approved, and the Mayor and City Manager are hereby authorized and directed to execute a final Agreement.

May 14, 2018 _____
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF COOPERATIVE CONSTRUCTION AGREEMENT FOR BROOKLYN BOULEVARD RECONSTRUCTION AND STREETSCAPE IMPROVEMENTS, SOUTH OF 49TH AVENUE TO NORTH OF BASS LAKE ROAD (CSAH 10), PROJECT NO. 2018-05 BETWEEN MINNESOTA DEPARTMENT OF TRANSPORTATION AND CITY OF BROOKLYN CENTER

WHEREAS, the City of Brooklyn Center ("City") and Minnesota Department of Transportation ("MnDOT") have been working cooperatively to advance the project to provide streetscape, trail, lighting and general roadway improvements to the Brooklyn Boulevard Corridor from 49th Avenue to north of Bass Lake Road; and

WHEREAS, the project is multi-jurisdictional, involving the MnDOT, Hennepin County, City of Minneapolis, Three Rivers Park District and the City; and

WHEREAS, the City and MnDOT desire to set forth their various construction, funding, operation and maintenance responsibilities in a Cooperative Construction Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Brooklyn Center hereby enters into MnDOT Agreement No. 1030538 with the State of Minnesota, Department of Transportation for the following purposes:

To allow the construction and require maintenance of County State Aid Highway No.152 (Brooklyn Boulevard) reconstruction which includes grading, bituminous surfacing, ADA improvements, drainage and signal systems and other associated construction to be performed upon, along and adjacent to County State Aid Highway No. 152 (Brooklyn Boulevard) from 500-feet south of 49th Avenue to 600-feet north of County State Aid Highway No. 10 (Bass Lake Road) according to City-prepared plans, specifications and special provisions designated by the City as and by the State as State Aid Project No. 109-124-001, State Project No. 109-020-013, State Project No. 027-752-032, State Project No. 141-020-118 and State Project No. 2755-105 (T.H. 100=003).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and City Manager are authorized to execute MnDOT Agreement No. 1030538 and any amendments to the Agreement.

RESOLUTION NO._____

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF TRAFFIC CONTROL SIGNAL MAINTENANCE AGREEMENT NO. 1030730 FOR INTERSECTIONS AT TRUNK HIGHWAY NO. 100 AT COUNTY STATE AID HIGHWAY (CSAH) NO. 152 (BROOKLYN BLVD) BETWEEN MINNESOTA DEPARTMENT OF TRANSPORTATION, HENNEPIN COUNTY AND CITY OF BROOKLYN CENTER

WHEREAS, the City of Brooklyn Center ("City"), Hennepin County ("County') and Minnesota Department of Transportation ("MnDOT") have been working cooperatively to advance the project to provide streetscape, trail, lighting and general roadway improvements to the Brooklyn Boulevard Corridor from 49th Avenue to north of Bass Lake Road; and

WHEREAS, MnDOT has requested that the City, Hennepin County and MnDOT enter into an agreement to provide for the construction, operation and maintenance of said traffic control signal system as set forth in Agreement No. 1030730.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Brooklyn Center hereby enters into MnDOT Agreement No. 1030730 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for the operation, maintenance and power of the Traffic Control Signals with Signal Pole Mounted Luminaires, Accessible Pedestrian Signals, Emergency Vehicle Preemption Systems, Signing and Interconnect on the Trunk Highway No. 100 north and south ramps at County State Aid Highway 152 (Brooklyn Boulevard) within the corporate City limits under State Project No. 109-020-013.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and City Manager are authorized to execute MnDOT Agreement No. 1030730 and any amendments to the Agreement.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF LIMITED USE PERMIT AGREEMENT FOR BROOKLYN BOULEVARD RECONSTRUCTION AND STREETSCAPE IMPROVEMENTS WITHIN STATE RIGHT-OF-WAY BETWEEN CITY OF BROOKLYN CENTER AND MINNESOTA DEPARTMENT OF TRANSPORTATION

WHEREAS, the City of Brooklyn Center is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Brooklyn Center has approved a plan to construct a pedestrian trail in the right-of way of Trunk Highway 100 to promote the orderly and safe crossing of the highway; and

WHEREAS, the State of Minnesota, Department of Transportation requires a Limited Use Permit for the construction and utilization of said pedestrian trail.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Brooklyn Center hereby enters into a Limited Use Permit with the State of Minnesota, Department of Transportation for the following purposes:

To construct, operate and maintain a pedestrian trail and sidewalk within the right-of-way of Trunk Highway 100 (TH 100=003) of the State of Minnesota along County State Aid Highway No. 152 (Brooklyn Boulevard). The City of Brooklyn Center shall construct, operate and maintain said trail in accordance with the Limited Use Permit granted by the Minnesota Department of Transportation.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and City Manager are authorized to execute Limited Use Permit No. 2755-0200 and any amendments to the Permit.

May 14, 2018 _____
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Agreement No. PW 13-02-18
County Project No. 1519
County State Aid Highway No. 152
City of Brooklyn Center
County of Hennepin

CONSTRUCTION COOPERATIVE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20_____ by and between the **County of Hennepin**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County", and the **City of Brooklyn Center**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the City and County desire to bring about the reconstruction of County State Aid Highway (CSAH) 152 (Brooklyn Boulevard) from 49th Avenue North to north of CSAH 10 (Bass Lake Road) within the corporate limits of the City, as shown on the plans for City Project Number 2018-05 (County Project Number 1519), hereinafter referred to as the "Project"; and

WHEREAS, the Project will improve roadway safety, enhance traffic operations, reduce access points, provide improved bicycle and pedestrian facilities, and provide streetscape and landscaping; and

WHEREAS, the City will be the lead agency for the Project and has secured federal funding to partially finance anticipated engineering and construction costs for the Project; and

WHEREAS, the City will be responsible for the development of the plans and specifications, right of way acquisition, environmental documentation and construction contract administration for the Project; and

WHEREAS, the City has entered into a separate agreement with the consulting engineering firm of SRF Consulting Group, Inc. to provide the design and construction engineering, environmental documentation, and right of way acquisition services necessary to construct the Project; and

WHEREAS, the City and County have previously entered into County Agreement PW 56-02-16, dated October 26, 2016, for County cost participation in engineering services necessary to construct the Project; and

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WHEREAS, the City has requested that the County approve the plans and specifications for the Project, and the County has indicated its willingness to approve said plans and specifications; and

WHEREAS, the City or its agents shall be responsible for administering construction of the Project and has adequate personnel available to perform the construction staking, testing, inspection and development of as-built plans required on the Project; and

WHEREAS, the City has prepared an Engineer's Estimate of quantities and unit prices for the Project in the sum of Ten Million Six Hundred Forty Five Thousand One Hundred Seventy Four Dollars and Ninety Cents ($10,645,174.90). A copy of said estimate, marked Exhibit "A", is attached hereto and by this reference made a part hereof; and

WHEREAS, the County will participate in the costs of the Project as detailed herein; and

WHEREAS, the costs for the Project shall be comprised of federal funds, municipal and county state aid funds, and local funds; and

WHEREAS, the County has Roadside Enhancement Partnership Program (REPP) funds available and will participate in the costs with REPP funds to bury overhead electrical power lines along the CSAH 152 roadway corridor within the construction limits of the Project; and

WHEREAS, the City will enter into one or more separate contracts with Xcel Energy to underground overhead electrical power lines along the CSAH 152 roadway corridor; and

WHEREAS, it is contemplated that said work be carried out by the parties hereto under the provisions of Minnesota Statutes, Section 162.17, Subdivision 1 and Section 471.59.

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NOW THEREFORE, IT IS HEREBY AGREED:

I

The City will advertise for bids for the work and construction of the Project, receive and open bids pursuant to said advertisement and will enter into a contract with the successful bidder at the unit prices specified in the bid of such bidder, according to law. The contract will include the plans and specifications prepared by the City or its agent, which said plans and specifications are referenced and identified as State Project Number (SP) 109-020-013, SP 141-020-118, SP 027-752-032, Federal Project Number STPF 2718 (101) and approved by the Minnesota Department of Transportation (MnDOT).

II

Prior to beginning construction, the City shall furnish the County with a complete set of County approved plans and specifications for the Project. Upon completion of the Project, the City or its agents shall furnish the County with a complete set of as-built plans certified as to their accuracy by the City's Project engineer. Said as-designed plans, specifications and as-built plans for the Project shall be furnished by the City at no cost to the County.

III

The City or its agents shall administer the construction contract and perform all required engineering, inspection and testing. All construction and materials sampling and testing for the Project shall be accomplished in accordance with all applicable standards and requirements of the Minnesota Department of Transportation's (MnDOT) State Aid for Local Transportation Division in effect at the time of Contract award.

The City shall also obtain, and comply with, any and all permits and approvals required from other governmental or regulatory agencies to accomplish the Project. Said permits and approvals shall be obtained prior to the start of any construction and made available to the County upon request.

IV

The construction of this Project shall be under the supervision and direction of the City Engineer or designated representative. All work for the Project shall be completed in compliance with the County approved plans and specifications. The County's Transportation Project Delivery Department Director and representative staff shall have the right, as the work progresses, to enter upon the premises to make any inspections deemed necessary and shall cooperate with the City's engineer and staff at their request to the extent necessary.

The County agrees that the City may make changes in the above referenced approved plans or in the character of said contract construction which are reasonably necessary to cause said construction to be in all things performed and completed in a satisfactory manner. It is further agreed by the County that the City may enter into any change orders or supplemental agreements with the City's contractor for the performance of any additional construction or construction occasioned by any necessary, advantageous or desirable changes in plans, within the original scope of the Project. The City shall obtain the approval of the County's Transportation Project Delivery Department Director or designated representative on said change orders or supplemental agreements. The County will respond to the City's request for approvals within seven (7) calendar days.

V

The City or its agents shall acquire all additional right of way, permits and/or easements required for the construction of said Project. The County shall reimburse the City for fifty (50) percent of the final cost of the right of way required to construct the Project. The amount of the County's share in said right of way acquisition costs is estimated to be $266,546.50.

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It is further understood and agreed that any and all County permits required by the Project shall be granted at no cost or expense to the City or its contractors.

Upon completion of this Project, all permanent right of way acquired for the County highway included in this Project as provided herein shall be conveyed to the County at no additional cost to the County.

VI

The County will participate in the costs of the contracted construction work for the Project as set forth in said Exhibit "A". The respective proportionate shares of the pro-rata pay items included in Exhibit "A" shall remain unchanged throughout the life of this Agreement. It is understood that the estimated amount on Page 2 of this Agreement and as shown in Exhibit "A" is an estimate of the costs for the contracted construction work on the Project and that the unit prices set forth in the contract with the successful bidder and the final quantities as measured by the City Engineer's designated representatives shall govern in computing the total final contract construction cost for apportioning the cost of the Project according to the provisions herein. It is further understood and agreed that the final quantities as measured by the City Engineer's designated representatives for contract pay items in which the County is participating shall be subject to the review and approval by the County.

As previously referenced, the Project will be partially funded with federal funds (federal funding capped at $7,420,000.00, or eighty (80) percent of the cost of federally eligible items, whichever is less). As shown in Exhibit "A", the remaining twenty (20) percent of the cost of federally eligible items shall be split proportionately between the parties at the agreed upon rate of fifteen (15) percent County, five (5) percent City. Should final contract construction costs of federally eligible items be significant enough to exhaust all federal funds available to the Project, the remaining balance of said federally eligible items (after federal funds are applied) shall be split proportionately between the parties by dividing the above agreed upon rates by twenty (20) percent; resulting in rates of seventy five (75) percent County, twenty five (25) percent City.

As shown in Exhibit "A", the estimated amount that the County will reimburse the City as its proportionate share of the construction costs for the Project is $1,542,771.23, after federal funds are applied.

It is understood by the City that the County intends to use County State Aid funds to reimburse the City for the County's share of the Project costs. It is further understood and agreed by the City that the County's cost participation must be eligible for County State Aid funding. Accordingly, it is understood and agreed that the County reserves the right not to make payment to the City for its share of the costs for the Project if any action or inaction of the City causes MnDOT's State Aid Engineer to determine that the County's costs are not eligible for State Aid funding.

VII

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After an award by the City to the successful bidder on the Project, the City shall invoice the County for ninety five (95) percent of the estimated county's shares in the contract construction costs for the Project. Payments shall be made to the City by the County for the full amount due stated on the invoice within forty five (45) days of the invoice date. Said estimated County's shares shall be based on actual contract unit prices applied to the estimated quantities shown in the plans.

In the event the City Engineer or City staff determines the need to amend the construction contract with a supplemental agreement or change order which results in an increase in the contract amount for the Project, the County hereby agrees to remit within forty five (45) days of notification by the City of said change an amount equal to ninety five (95) percent of the estimated County's shares as documented in the supplemental agreement or change order.

The remainder of the County's share in the contract construction costs of the Project, including additional costs resulting from supplemental agreements and change orders, will be due the City upon acceptance by the City's construction engineer of all the construction work performed by the City's construction contractor and submittal of the City Engineer's final estimate for the Project to the County.

Upon final payment to the Project contractor by the City, any amount remaining as a balance in the deposit account will be returned to the County, within 45 days, on a proportionate basis based on the County's initial deposit amount and the County's final proportionate share of the Project costs. Likewise, any amount due the City from the County upon final payment by the City shall be paid by the County as its final payment for the construction costs of the Project within forty five (45) days of receipt of an invoice from the City.

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VIII

In conjunction with the Project, the City will enter into one or more separate agreements with Xcel Energy to accomplish the underground relocation of the electrical power lines within the Project limits. It is understood that all work to be performed by Xcel Energy will be done either in conjunction with or prior to the start of the construction activities of the Project. It is understood that as a consequence of the burial of overhead electrical power lines, individual service feeds for the residences and businesses may need to be rewired in a manner to make the service feeds compatible with the newly buried electrical power lines. The City will be responsible to coordinate with Xcel Energy and the affected property owners regarding any individual service feed rewiring that may be required or desired.

The County, through its Roadside Enhancement Partnership Program (REPP), will participate in a proportionate share of the costs to underground overhead power lines. As set forth in the County's Cost Participation Policy, the County's proportionate share of utility burial costs eligible for this funding source is thirty three (33) percent and may not exceed $330,000.00 per center line mile. The County's estimated share for these costs is $138,310.36 and shall not exceed One Hundred Forty Thousand Dollars and No Cents ($140,000.00).

IX

The proportionate shares of the various costs the County will pay the City have been identified and set forth in Articles IV through VIII of this Agreement. The estimated amount that County is to pay the City as a result of this Agreement is $1,947,628.09 (construction costs, right of way, and utility burial). The parties acknowledge that the stated amounts are estimates and that the actual payment amounts will be based on actual costs and contract unit prices, as specified elsewhere throughout this Agreement. The City understands and agrees that the County's total participation in the construction, right of way and overhead utility burial relocation costs for the Project shall not exceed Three Million Five Hundred Thousand Dollars and No Cents ($3,500,000.00) without an amendment to this Agreement.

X

It is understood and agreed that the County will provide and plant bare root "gravelbed" trees within the right of way along CSAH 152 from 49th Ave N to Bass Lake Road in conjunction with construction of the Project

"Gravelbed" trees are defined herein as bare root trees delivered from a nursery and installed in an irrigated bed of gravel. During this time, trees dramatically increase their fibrous root volume, which in turn decreases transplant shock and increases survival rates making them particularly suitable for roadway corridors that are heavily salted during the winter months. In addition, "gravelbed" trees are approximately one quarter the cost of trees which are most commonly planted along roadways. It is understood by the parties hereto that the County has the materials and resources available to complete the "gravelbed" tree planting along the CSAH 152 roadway at a greatly reduced cost.

The installation process will be overseen by a County certified arborist. Hennepin County Foresters will work with Sentencing to Service (STS) crews to install the trees which will minimize planting costs. The trees will be maintained and watered for the first two years by the County STS Forestry crew. County certified arborists will pay close attention to the status of the trees during this period and ensure that the proper level of care is given if any tree looks stressed. Any tree that does not survive within the first two years will be replaced by the County.

It is understood and agreed by the City that the County STS Forestry crew may request its water tank to be filled at a designated City facility to assist in watering efficiency during the two year maintenance/watering period. The County intends to use "gator bags" for watering the trees and employs a 500 gallon water tank for the watering efforts. It is estimated it will take eight (8) tanks to water the trees planted with the Project one time, and the County STS Forestry crew will water the trees on average six (6) times per season. The City agrees to provide said water for the trees at no cost to the County.

It is understood and agreed by the City that the County will provide and plant two hundred and

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forty (240) trees in accordance with the plans within the right of way along CSAH 152 between 49th Ave North and CSAH 10 (Bass Lake Road) at a cost of one hundred (100) dollars per tree for a total cost of Twenty Four Thousand Dollars and No Cents ($24,000.00). It is further understood and agreed that the City shall reimburse the County for sixty seven (67) percent or Sixteen Thousand Eighty Dollars and No Cents ($16,080.00) as its proportionate share of the costs for the "gravelbed" trees provided and installed by the County.

After installation of the "gravelbed" trees by the County, the County will invoice the City for one hundred (100) percent of the City's costs to provide and install the "gravelbed" trees as provided herein. Payment shall be made to the County by the City for the full amount due stated on the invoice within forty five (45) days of the invoice date.

XI

The County will supply the traffic signal cabinet, controller and control equipment, and video detection equipment (County Supplied Equipment) for the traffic control signal systems installed as part of the Project for those traffic control signal systems owned and maintained by the County. The City shall reimburse the County for its share of the County Supplied Equipment as set forth in the Division of Cost Summary contained in Exhibit "A". The estimated total cost for said County Supplied Equipment is One Hundred Sixty Five Thousand Dollars and No Cents ($165,000.00). The estimated cost to the City for said County Supplied Equipment is Fifty Five Thousand Dollars and No Cents ($55,000.00). The County will invoice the City for said County Supplied Equipment. Payment shall be made to the County by the City for the full amount due stated on the invoice within forty five (45) days of the invoice date.

It is further agreed that said estimate of the costs of the County Supplied Equipment is an estimate and that the actual quantities of equipment, as determined by the County's Transportation Operations Department Director shall govern in computing the total final cost to the City.

XII

All payments to the City must be postmarked by the date due or a late penalty of one (1) percent per month, or fraction thereof, on the unpaid balance will be charged to the County. The County shall pay the amount due as stated on the statement, notwithstanding any dispute of such amount. Should a disputed amount be resolved in favor of the County, the City shall reimburse the disputed amount plus daily interest thereon calculated from the date such disputed amount was received by the respective city. Daily interest shall be at the rate of one (1%) percent per month on the disputed amount.

All payments to the County must be postmarked by the date due or a late penalty of one (1) percent per month, or fraction thereof, on the unpaid balance will be charged to the City. The City shall pay the amount due as stated on the statement, notwithstanding any dispute of such amount. Should a disputed amount be resolved in favor of the City, the County shall reimburse the disputed amount plus daily interest thereon calculated from the date such disputed amount was received by the

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County. Daily interest shall be at the rate of one (1%) percent per month on the disputed amount.

XIII

It is understood and agreed that upon completion of the Project, all water distribution system components, sanitary sewer systems, concrete sidewalk, bituminous trail, fencing, lighting and all municipal street construction included in said improvement shall be the property of the City and all maintenance, restoration, repair or other work or services required thereafter shall be performed by the City at no expense to the County. It is understood that maintenance of the intersecting municipal streets begins at the back of curb of CSAH 152.

Notwithstanding the maintenance responsibilities of the City as specified in the previous paragraph, it is further understood and agreed that upon completion of the Project, all landscaping, grass areas and streetscape as shown in the plans for the Project, shall become the responsibility of the City and all maintenance, restoration, repair, replacement or other work or services required thereafter shall be performed by the City at no expense to the County.

It is understood and agreed by the parties that the City shall provide the electrical energy for the operation of the pedestrian and street lighting included in the Project at no expense to the County.

The City shall install, cause the installation of, or perpetuate the existence of adequate three wire, 120/240 volt, single phase, alternating current electrical power connection to traffic control signals and integral street lights included in the Project. Further, the City, at its sole cost and expense, shall provide the electrical energy for the operation of all permanent and temporary traffic control signals and streetlights installed as a part of the Project, with the exception of System "A" located at CSAH 152 and 49th Avenue North, which shall remain the responsibility of the city of Minneapolis.

Upon completion of the Project the County shall, at its own cost and expense, retain ownership and maintenance responsibilities for those portions of the roadway storm sewer drainage system functioning as catch basins and associated lead pipes that are within or between the outermost curb lines of the County roadways as well as those within the radius return limits of intersecting municipal streets. All other components of the roadway storm sewer drainage system, constructed as a part of this Project including but not limited to all trunk lines, drainage structures, ponds, and storm water treatment structures, shall become the property of the City and shall be maintained by the City. It is understood that maintenance of cross road culverts within County right of way will be the responsibility of the County.

It is understood by the parties hereto that the term 'upon completion of the Project' as used in this agreement shall be defined as acceptance by the City's construction engineer of the construction work performed by the City's construction contractor that is to be maintained by the County as specified herein. All questions of maintenance responsibilities that may arise shall be jointly resolved by the City's Director of Public Works and the County's Transportation Operations Department Director.

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XIV

All records kept by the City and the County with respect to the Project shall be subject to examination by the representatives of each party hereto.

XV

Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts of the other party and the results thereof. The County's and the City's liability is governed by the provisions of Minnesota Statutes, Chapter 466.

The County and the City each warrant that they are able to comply with the aforementioned indemnity requirements through an insurance or self-insurance program.

XVI

The City agrees to defend, indemnify and hold harmless the County, its officials, officers, agents, volunteers and employees, from any liabilities, claims, causes of action, judgments, damages, losses, costs or expenses, including, reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the City, its contractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable for related to the ownership, maintenance, existence, restoration, repair or replacement of the improvements constructed as part of the Project. The City's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

The County agrees to defend, indemnify, and hold harmless the City, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the County, its contractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable related to the ownership, maintenance, existence, restoration, repair or replacement of the improvements constructed as part of the Project. The County's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

XVII

The City also agrees that any contract let by the City or its agents for the performance of the work on the Project as provided herein shall include clauses that will: 1) Require the Contractor to defend, indemnify, and hold the County, its officials, officers, agents and employees harmless from any liability, causes of action, judgments, damages, losses, costs or expenses including, without limitation, reasonable attorneys' fees, arising out of or by reason of the acts and/or omissions of the said Contractor, its officers, employees, agents or subcontractors; 2) Require the Contractor to be an

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independent contractor for the purposes of completing the work provided for in this Agreement; and 3) Require the Contractor to provide and maintain insurance in accordance with the following:

1. Commercial General Liability on an occurrence basis with Contractual Liability and Explosion, Collapse and Underground Property Damage (XCU) Liability coverages:

	Limits
General Aggregate	$2,000,000
Products--Completed Operations Aggregate	$2,000,000
Personal and Advertising Injury	$1,500,000
Each Occurrence - Combined Bodily Injury and Property Damage	$1,500,000

Hennepin County shall be named as an additional insured for the Commercial General Liability coverage with respect to operations covered under this Agreement.

2. Automobile Liability:

Combined Single limit each occurrence coverage or the equivalent covering owned, non-owned, and hired automobiles:	$1,500,000

3. Workers' Compensation and Employer's Liability:

A. Workers' Compensation	Statutory
If the Contractor is based outside the State of Minnesota, coverages must apply to Minnesota laws.	
B. Employer's Liability - Bodily injury by:	
Accident - Each Accident	$500,000
Disease - Policy Limit	$500,000
Disease - Each Employee	$500,000

4. Professional Liability – Per Claim	$1,500,000
Aggregate	$2,000,000

It understood and agreed by the parties hereto that the above listed Professional Liability insurance will not be required in any construction contract let by City if the City's Contractor is not required to perform design engineering as part of said construction contract.

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An umbrella or excess policy over primary liability coverages is an acceptable method to provide the required insurance limits.

The above subparagraphs establish minimum insurance requirements. It is the sole responsibility of the City's Contractor to determine the need for and to procure additional insurance which may be needed in connection with said Project.

All insurance policies shall be open to inspection by the County and copies of policies shall be submitted to the County upon written request.

XVIII

It is further agreed that any and all employees of the City and all other persons engaged by the City in the performance of any work or services required or provided for herein to be performed by the City shall not be considered employees of the County, and that any and all claims that may or might arise under the Minnesota Economic Security Law or the Workers' Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the County.

Also, any and all employees of the County and all other persons engaged by the County in the performance of any work or services required or provided for herein to be performed by the County shall not be considered employees of the City, and that any and all claims that may or might arise under the Minnesota Economic Security Law or the Workers' Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the City.

XIX

In order to coordinate the services of the County with the activities of the City so as to accomplish the purposes of this Agreement, the County's Transportation Project Delivery Director or designated representative shall manage this Agreement on behalf of the County and serve as liaison between the County and the City.

In order to coordinate the services of the City with the activities of the County so as to accomplish the purposes of this Agreement, the City Engineer or designated representative shall manage this Agreement on behalf of the City and serve as liaison between the City and the County.

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XX

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

XXI

The whereas clauses are incorporated herein and are hereby made a part of this Agreement.

XXII

The provisions of Minnesota Statutes 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

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(this space left intentionally blank)

IN TESTIMONY WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF BROOKLYN CENTER

(Seal)

By:_____
Mayor

Date:_____

And:_____
Manager

Date:_____

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Agreement No. PW 13-02-18
CSAH No. 152; C.P. 1519

COUNTY OF HENNEPIN

ATTEST:

By:_____
Deputy/Clerk of the County Board

Date:_____

APPROVED AS TO FORM:

By:_____
Assistant County Attorney

Date:_____

APPROVED AS TO EXECUTION:

By:_____
Assistant County Attorney

Date:_____

By:_____
Chair of its County Board

Date:_____

And:_____
County Administrator

Date:_____

And:_____
Assistant County Administrator, Public Works

Date:_____

RECOMMENDED FOR APPROVAL

By:_____
Director, Transportation Project Delivery Department

Date:_____

RECOMMENDED FOR APPROVAL

By:_____
Director, Transportation Operations Department

Date:_____

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EXHIBIT A

CSAH 152 (BROOKLYN BLVD) PHASE 1 RECONSTRUCTION
COUNTY PROJECT NO. 1519
DIVISION OF COST SUMMARY

	TOTAL	Federal Funding	Hennepin County	Brooklyn Center	Minneapolis (8)	Metro Transit	Three Rivers Park District
Roadway (1)	$ 8,742,802.90	$ 6,994,242.32	$ 1,311,420.44	$ 437,140.15	$ -	$ -	$ -
Landscaping 1 (2)	$ 701,063.00	$ -	$ 231,350.79	$ 469,712.21	$ -	$ -	$ -
Landscaping 2 (3)	$ 337,080.00	$ -	$ -	$ 337,080.00	$ -	$ -	$ -
Local 1 (51st Ave)	$ 91,160.00	$ -	$ -	$ 91,160.00	$ -	$ -	$ -
Local 2 (BC / MT / TRPD)	$ 773,069.00	$ -	$ -	$ 659,909.11	$ -	$ 100,419.89	$ 12,740.00
Construction Total	$ 10,645,174.90	$ 6,994,242.32	$ 1,542,771.23	$ 1,995,001.47	$ -	$ 100,419.89	$ 12,740.00
Right of Way (4)	$ 533,093.00	$ -	$ 266,546.50	$ 266,546.50	$ -	$ -	$ -
Trees (5)	$ 24,000.00	$ -	$ 7,920.00	$ 16,080.00	$ -	$ -	$ -
County Supplied (Traffic Signal) Equipment (6)	$ 165,000.00	$ -	$ 110,000.00	$ 55,000.00	$ -	$ -	$ -
Utility Undergrounding (7)	$ 419,122.31	$ -	$ 138,310.36	$ 280,811.95	$ -	$ -	$ -
PROJECT TOTAL	$ 11,786,390.21	$ 6,994,242.32	$ 2,065,548.09	$ 2,613,439.92	$ -	$ 100,419.89	$ 12,740.00
COST PAID BY COUNTY TO CITY (9)			$ 1,947,628.09				

NOTES:

(1) Federal Aid Eligible items. Federal funding capped at $7,420,000.00 or 80% of Federal Aid Eligible items, whichever is less. In the case of this estimate, 80% controls. Remaining 20% is local match and is split proportionally (based on Hennepin County Cost Participation Policy and unit prices from the 100% Engineer's Estimate). Split equals 15% Hennepin County, 5% Brooklyn Center, which shall remain constant for the duration of the contract.

(2) Landscaping split 33% Hennepin County / 67% Brooklyn Center.

(3) Landscaping 100% Brooklyn Center.

(4) Right of way cost shared equally between Hennepin County (50%) and Brooklyn Center (50%).

(5) Trees split 33% Hennepin County / 67% Brooklyn Center

(6) Traffic signal equipment supplied by Hennepin County includes cabinet/controllers and video detection systems (VDS).
Cabinets/controllers estimated cost = $30,000.00 per intersection. VDS estimated cost = $25,000.00 per intersection.

Traffic Signal System A (controller + VDS) = $55,000.00 (Cost Split: 50% Hennepin County / 50% Brooklyn Center)
Traffic Signal System B (MnDOT system - no County Supplied Equipment)
Traffic Signal System C (MnDOT system - no County Supplied Equipment)
Traffic Signal System D (controller + VDS) = $55,000.00 (Cost Split: 50% Hennepin County / 50% Brooklyn Center)
Traffic Signal System E (controller + VDS) = $55,000.00 (Cost Split: 100% Hennepin County)

(7) County will participate in 33% of utility undergrounding costs through Roadside Enhancement Partnership Program (REPP) funds. Estimate for this work taken from REPP request letter from Brooklyn Center dated 2/27/2018.

(8) Minneapolis costs set forth in agreement between Brooklyn Center and Minneapolis

(9) County's project total less County's proportionate share of trees and County Supplied Equipment

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EXHIBIT A

(A) 80% Federal, 15% Hennepin County, 5% Brooklyn Center

3/30/2018

BROOKLYN BOULEVARD - ENGINEER'S ESTIMATE OF PROBABLE COST

ITEM NO.	ITEM DESCRIPTION	UNIT	UNIT PRICE	TOTAL PROJECT QUANTITIES		FEDERAL AID PARTICIPATING		FEDERAL AID NON PARTICIPATING							
						SP NOS. 027-752-032, 109-020-013, 141-020-118 (A)		LANDSCAPING SAP NOS. 027-752-032, 109-020-013				SAP 109-124-001		LOCAL	
								33% Hennepin County 67% Brooklyn Center		100% Brooklyn Center		51ST AVE		BROOKLYN CENTER METRO TRANSIT, TRPD	
				ESTIMATED	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST
2011.601	AS BUILT	LUMP SUM	$10,000.00	1	$10,000.00	1	$10,000.00								
2021.501	MOBILIZATION	LUMP SUM	$600,000.00	1	$600,000.00	0.82	$492,000.00	0.07	$42,000.00	0.03	$18,000.00	0.01	$6,000.00	0.07	$42,000.00
2031.502	FIELD OFFICE TYPE D	EACH	$30,000.00	1	$30,000.00	0.82	$24,600.00	0.07	$2,100.00	0.03	$900.00	0.01	$300.00	0.07	$2,100.00
2041.610	TRAINEES	HOUR	$1.00	1800	$1,800.00	1800	$1,800.00								
2101.524	GRUBBING	TREE	$200.00	61	$12,200.00	57	$11,400.00							4	$800.00
2102.503	PAVEMENT MARKING REMOVAL	LIN FT	$0.20	4500	$900.00	4500	$900.00								
2104.502	REMOVE BOLLARDS	EACH	$150.00	4	$600.00									4	$600.00
2104.502	REMOVE POST	EACH	$100.00	1	$100.00									1	$100.00
2104.502	REMOVE LIGHT STANDARD	EACH	$250.00	1	$250.00	1	$250.00								
2104.502	REMOVE CONCRETE STEPS	EACH	$450.00	2	$900.00									2	$900.00
2104.502	REMOVE FLAGPOLE	EACH	$250.00	2	$500.00	1	$250.00							1	$250.00
2104.502	REMOVE CASTING	EACH	$225.00	3	$675.00	3	$675.00								
2104.502	REMOVE GATE VALVE & BOX	EACH	$225.00	9	$2,025.00	7	$1,575.00							2	$450.00
2104.502	REMOVE CURB STOP & BOX	EACH	$150.00	26	$3,900.00									26	$3,900.00
2104.502	REMOVE HYDRANT	EACH	$350.00	5	$1,750.00	5	$1,750.00								
2104.502	REMOVE DRAINAGE STRUCTURE	EACH	$400.00	77	$30,800.00	75	$30,000.00					1	$400.00	1	$400.00
2104.502	REMOVE FOUNDATION	EACH	$1,000.00	1	$1,000.00									1	$1,000.00
2104.502	REMOVE SIGN TYPE C	EACH	$40.00	116	$4,640.00	107	$4,280.00							9	$360.00
2104.502	REMOVE SIGN TYPE D	EACH	$100.00	7	$700.00	7	$700.00								
2104.502	REMOVE SIGN TYPE SPECIAL	EACH	$800.00	2	$1,600.00	2	$1,600.00								
2104.502	REMOVE SIGNAL SYSTEM A	EACH	$10,000.00	1	$10,000.00	1	$10,000.00								
2104.502	REMOVE SIGNAL SYSTEM D	EACH	$10,000.00	1	$10,000.00	1	$10,000.00								
2104.502	REMOVE SIGNAL SYSTEM E	EACH	$10,000.00	1	$10,000.00	1	$10,000.00								
2104.502	REMOVE LIGHT FOUNDATION	EACH	$450.00	5	$2,250.00	5	$2,250.00								
2104.502	REMOVE BENCH	EACH	$200.00	2	$400.00	2	$400.00								
2104.502	REMOVE ENERGY ABSORBING TERMINAL	EACH	$300.00	2	$600.00	2	$600.00								
2104.502	SALVAGE CASTING	EACH	$225.00	1	$225.00	1	$225.00								
2104.502	SALVAGE MANHOLE	EACH	$750.00	1	$750.00	1	$750.00								
2104.502	SALVAGE LIGHT STANDARD	EACH	$200.00	2	$400.00	2	$400.00								
2104.502	SALVAGE LUMINAIRE	EACH	$60.00	3	$180.00	3	$180.00								
2104.502	SALVAGE LIGHTING UNIT	EACH	$450.00	3	$1,350.00	1	$450.00							2	$900.00
2104.502	SALVAGE SIGN TYPE C	EACH	$50.00	3	$150.00	3	$150.00								
2104.502	SALVAGE SIGN TYPE D	EACH	$100.00	1	$100.00	1	$100.00								
2104.502	SALVAGE SIGN TYPE SPECIAL	EACH	$60.00	4	$240.00	4	$240.00								
2104.502	ABANDON CATCH BASIN OR MANHOLE	EACH	$1,500.00	5	$7,500.00	5	$7,500.00								
2104.502	ABANDON PIPE SEWER	EACH	$15.00	1698	$25,470.00	1698	$25,470.00								
2104.503	REMOVE PIPE CULVERTS	LIN FT	$20.00	243	$4,860.00	138	$2,760.00							105	$2,100.00
2104.503	REMOVE WATER MAIN	LIN FT	$10.00	437	$4,370.00	137	$1,370.00							300	$3,000.00
2104.503	REMOVE SEWER PIPE (STORM)	LIN FT	$12.00	3462	$41,424.00	3399	$40,788.00					39	$390.00	23	$276.00
2104.503	REMOVE SEWER PIPE (SANITARY)	LIN FT	$13.00	121	$1,573.00	121	$1,573.00								
2104.503	REMOVE CURB & GUTTER	LIN FT	$3.00	31060	$93,180.00	30030	$90,090.00					120	$360.00	910	$2,730.00
2104.503	REMOVE CONCRETE RETAINING WALL	LIN FT	$35.00	24	$840.00									24	$840.00
2104.503	REMOVE CHAIN LINK FENCE	LIN FT	$5.00	1696	$8,480.00	420	$2,100.00							1276	$6,380.00
2104.503	REMOVE GUARDRAIL-PLATE BEAM	LIN FT	$12.50	212	$2,650.00	212	$2,650.00								
2104.503	REMOVE NON-METALLIC CONDUIT	LIN FT	$3.50	660	$2,310.00	660	$2,310.00								
2104.503	REMOVE HANDRAIL	LIN FT	$25.00	15	$375.00									15	$375.00
2104.503	REMOVE CONCRETE BLOCK WALL	LIN FT	$40.00	60	$2,400.00	60	$2,400.00								
2104.503	REMOVE DIRECT BURIED LIGHTING CABLE	LIN FT	$4.00	2240	$8,960.00	2240	$8,960.00								
2104.503	SALVAGE FENCE	LIN FT	$6.00	515	$3,090.00									515	$3,090.00
2104.503	SALVAGE RETAINING WALL	LIN FT	$25.00	60	$1,500.00	60	$1,500.00								
2104.504	REMOVE CONCRETE MEDIAN	SQ YD	$2.00	1530	$3,060.00	1530	$3,060.00								
2104.504	REMOVE CONCRETE WALK	SQ YD	$2.00	7277	$14,554.00	7100	$14,200.00					170	$340.00	7	$14.00
2104.504	REMOVE PAVEMENT	SQ YD	$8.00	1890	$15,120.00	1890	$15,120.00								
2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	SQ YD	$8.00	739	$5,912.00	660	$5,280.00					60	$480.00	19	$152.00
2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	SQ YD	$5.00	830	$4,150.00	680	$3,400.00					70	$350.00	80	$400.00
2104.504	REMOVE BITUMINOUS PAVEMENT	SQ YD	$3.00	67120	$201,360.00	61770	$185,310.00					1210	$3,630.00	4140	$12,420.00
2104.518	REMOVE BITUMINOUS WALK	SQ FT	$1.00	7160	$7,160.00	7160	$7,160.00								
2104.601	HAUL SALVAGED MATERIAL	LUMP SUM	$10,000.00	1	$10,000.00									1	$10,000.00

DRAFT

EXHIBIT A

(A) 80% Federal, 15% Hennepin County, 5% Brooklyn Center

3/30/2018

BROOKLYN BOULEVARD - ENGINEER'S ESTIMATE OF PROBABLE COST

ITEM NO.	ITEM DESCRIPTION		UNIT	UNIT PRICE	TOTAL PROJECT QUANTITIES		FEDERAL AID PARTICIPATING		FEDERAL AID NON PARTICIPATING							
							SP NOS. 027-752-032, 109-020-013, 141-020-118 (A)		LANDSCAPING SAP NOS. 027-752-032, 109-020-013				SAP 109-124-001		LOCAL	
									33% Hennepin County 67% Brooklyn Center		100% Brooklyn Center		51ST AVE		BROOKLYN CENTER METRO TRANSIT, TRPD	
					ESTIMATED	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST
2104.602	SALVAGE SIGN SPECIAL		EACH	$3,000.00	1	$3,000.00									1	$3,000.00
2105.507	HAUL & DISPOSE OF CONTAMINATED MATERIAL		CU YD	$100.00	80	$8,000.00									80	$8,000.00
2105.510	DEWATERING		LUMP SUM	$10,000.00	1	$10,000.00	0.8	$8,000.00	0.1	$1,000.00					0.1	$1,000.00
2106.507	EXCAVATION - COMMON	(P)	CU YD	$6.00	55026	$330,156.00	50173	$301,038.00					672	$4,032.00	4181	$25,086.00
2106.507	GRANULAR EMBANKMENT (CV)	(P)	CU YD	$7.50	18758	$140,685.00	15871	$119,032.50					186	$1,395.00	2701	$20,257.50
2106.507	COMMON EMBANKMENT (CV)	(P)	CU YD	$4.00	6477	$25,908.00	5545	$22,180.00					81	$324.00	851	$3,404.00
2118.507	AGGREGATE SURFACING (CV) CLASS 2		CU YD	$30.00	10	$300.00	10	$300.00								
2123.610	STREET SWEEPER (WITH PICKUP BROOM)		HOUR	$175.00	300	$52,500.00	250	$43,750.00					10	$1,750.00	40	$7,000.00
2130.523	WATER		M GALLON	$35.00	450	$15,750.00	400	$14,000.00					10	$350.00	40	$1,400.00
2211.507	AGGREGATE BASE (CV) CLASS 5		CU YD	$27.00	28113	$758,051.00	27505	$742,635.00					420	$11,340.00	1188	$32,076.00
2231.509	BITUMINOUS PATCHING MIXTURE		TON	$150.00	20	$3,000.00	20	$3,000.00								
2232.504	MILL BITUMINOUS SURFACE (3.5")		SQ YD	$2.00	6870	$13,740.00	6870	$13,740.00								
2301.502	DOWEL BAR		EACH	$8.00	115	$920.00									115	$920.00
2301.504	CONCRETE PAVEMENT 10.0"		SQ YD	$100.00	380	$38,000.00									380	$38,000.00
2360.509	TYPE SP 9.5 WEARING COURSE MIX (2,C)		TON	$55.00	1430	$78,650.00	810	$44,550.00					150	$8,250.00	470	$25,850.00
2360.509	TYPE SP 12.5 WEARING COURSE MIX (2,C)		TON	$55.00	1650	$90,750.00	1070	$58,850.00					200	$11,000.00	380	$20,900.00
2360.509	TYPE SP 12.5 NON WEAR COURSE MIX (3,B)		TON	$55.00	8550	$470,250.00	8370	$460,350.00							180	$9,900.00
2360.509	TYPE SP 12.5 WEARING COURSE MIX (3,F)		TON	$60.00	13520	$811,200.00	13520	$811,200.00								
2411.603	CONCRETE PLANTER WALL		LIN FT	$40.00	1544	$61,760.00			1544	$61,760.00						
2451.507	MEDIUM FILTER AGGREGATE (CV)		CU YD	$70.00	79	$5,530.00	79	$5,530.00								
2501.502	15" RC PIPE APRON		EACH	$650.00	8	$5,200.00	8	$5,200.00								
2501.502	18" RC PIPE APRON		EACH	$700.00	1	$700.00	1	$700.00								
2501.502	21" RC PIPE APRON		EACH	$750.00	1	$750.00	1	$750.00								
2501.502	24" RC PIPE APRON		EACH	$800.00	1	$800.00	1	$800.00								
2502.503	4" PERF TP PIPE DRAIN		LIN FT	$7.00	5419	$37,933.00	4874	$34,118.00					145	$1,015.00	400	$2,800.00
2503.503	12" CS PIPE SEWER		LIN FT	$38.00	48	$1,824.00	48	$1,824.00								
2502.503	6" PERF PE PIPE DRAIN		LIN FT	$18.00	531	$9,558.00	531	$9,558.00								
2503.503	6" PVC PIPE SEWER		LIN FT	$35.00	160	$5,600.00	160	$5,600.00								
2503.503	12" RC PIPE SEWER DES 3006 CL V		LIN FT	$40.00	177	$7,080.00	122	$4,880.00					29	$1,160.00	26	$1,040.00
2503.503	15" RC PIPE SEWER DES 3006 CL V		LIN FT	$40.00	3691	$147,640.00	3530	$141,200.00							161	$6,440.00
2503.503	18" RC PIPE SEWER DES 3006 CL III		LIN FT	$40.00	530	$21,200.00	175	$7,000.00							355	$14,200.00
2503.503	18" RC PIPE SEWER DES 3006 CL IV		LIN FT	$42.00	140	$5,880.00	140	$5,880.00								
2503.503	21" RC PIPE SEWER DES 3006 CL III		LIN FT	$44.00	430	$18,920.00	430	$18,920.00								
2503.503	24" RC PIPE SEWER DES 3006 CL III		LIN FT	$50.00	101	$5,050.00	101	$5,050.00								
2503.503	24" RC PIPE SEWER DES 3006 CL IV		LIN FT	$55.00	323	$17,765.00	323	$17,765.00								
2503.503	36" RC PIPE SEWER DES 3006 CL III		LIN FT	$85.00	277	$23,545.00	277	$23,545.00								
2503.503	42" RC PIPE SEWER DES 3006 CL III		LIN FT	$110.00	149	$16,390.00	149	$16,390.00								
2503.503	42" RC PIPE SEWER DES 3006 CL IV		LIN FT	$120.00	1811	$217,320.00	1811	$217,320.00								
2503.602	CONNECT TO EXISTING SANITARY SEWER		EACH	$1,200.00	3	$3,600.00									3	$3,600.00
2503.602	CONNECT TO EXISTING MANHOLES (SAN)		EACH	$2,000.00	2	$4,000.00									2	$4,000.00
2503.602	CONNECT TO EXISTING STORM SEWER		EACH	$800.00	12	$9,600.00	12	$9,600.00								
2503.602	CONNECT INTO EXISTING DRAINAGE STRUCTURE		EACH	$1,000.00	11	$11,000.00	9	$9,000.00					1	$1,000.00	1	$1,000.00
2503.602	8"X4" PVC WYE		EACH	$250.00	5	$1,250.00									5	$1,250.00
2503.602	8"X6" PVC WYE		EACH	$350.00	1	$350.00									1	$350.00
2503.603	PLUG FILL & ABANDON PIPE SEWER		LIN FT	$20.00	240	$4,800.00	240	$4,800.00								
2503.603	CLEAN AND VIDEO TAPE PIPE SEWER		LIN FT	$15.00	606	$9,090.00	40	$600.00							566	$8,490.00
2503.603	4" PVC PIPE SEWER		LIN FT	$40.00	139	$5,560.00									139	$5,560.00
2503.603	6" PVC PIPE SEWER		LIN FT	$45.00	30	$1,350.00									30	$1,350.00
2503.603	8" PVC PIPE SEWER		LIN FT	$50.00	467	$23,350.00	40	$2,000.00							427	$21,350.00
2503.603	LINING SEWER PIPE 8"		LIN FT	$40.00	892	$35,680.00									892	$35,680.00
2503.603	LINING SEWER PIPE 10"		LIN FT	$60.00	204	$12,240.00									204	$12,240.00
2503.608	DUCTILE IRON FITTINGS		POUND	$8.00	2830	$22,640.00	930	$7,440.00							1900	$15,200.00
2504.601	IRRIGATION SYSTEM		LUMP SUM	$75,000.00	1	$75,000.00					1	$75,000.00				
2504.601	TEMPORARY WATER SERVICE		LUMP SUM	$30,000.00	1	$30,000.00									1	$30,000.00
2504.602	CONNECT TO EXISTING WATER MAIN		EACH	$1,300.00	10	$13,000.00	4	$5,200.00							6	$7,800.00
2504.602	ANODE PACKS		EACH	$150.00	6	$900.00	4	$600.00							2	$300.00
2504.602	HYDRANT		EACH	$3,500.00	6	$21,000.00	4	$14,000.00							2	$7,000.00
2504.602	ADJUST GATE VALVE & BOX		EACH	$400.00	15	$6,000.00	14	$5,600.00							1	$400.00

EXHIBIT A

(A) 80% Federal, 15% Hennepin County, 5% Brooklyn Center

3/30/2018

BROOKLYN BOULEVARD - ENGINEER'S ESTIMATE OF PROBABLE COST

ITEM NO.	ITEM DESCRIPTION	UNIT	UNIT PRICE	TOTAL PROJECT QUANTITIES		FEDERAL AID PARTICIPATING		FEDERAL AID NON PARTICIPATING							
						SP NOS. 027-752-032, 109-020-013, 141-020-118 (A)		LANDSCAPING SAP NOS. 027-752-032, 109-020-013				SAP 109-124-001		LOCAL	
								33% Hennepin County 67% Brooklyn Center		100% Brooklyn Center		51ST AVE		BROOKLYN CENTER METRO TRANSIT, TRPD	
				ESTIMATED	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST
2504.602	1" CORPORATION STOP	EACH	$250.00	4	$1,000.00									4	$1,000.00
2504.602	12" BUTTERFLY VALVE & BOX	EACH	$2,800.00	1	$2,800.00									1	$2,800.00
2504.602	16" BUTTERFLY VALVE & BOX	EACH	$3,200.00	1	$3,200.00									1	$3,200.00
2504.602	6" GATE VALVE & BOX	EACH	$1,400.00	8	$11,200.00	4	$5,600.00							4	$5,600.00
2504.602	10" GATE VALVE & BOX	EACH	$2,500.00	1	$2,500.00									1	$2,500.00
2504.602	1" CURB STOP & BOX	EACH	$375.00	26	$9,750.00									26	$9,750.00
2504.603	1" TYPE K COPPER PIPE	LIN FT	$30.00	750	$22,500.00									750	$22,500.00
2504.603	6" WATERMAIN DUCTILE IRON CL 52	LIN FT	$35.00	440	$15,400.00	80	$2,800.00							360	$12,600.00
2504.603	8" WATERMAIN DUCTILE IRON CL 52	LIN FT	$45.00	20	$900.00	20	$900.00								
2504.603	10" WATERMAIN DUCTILE IRON CL 52	LIN FT	$60.00	10	$600.00									10	$600.00
2504.603	12" WATERMAIN DUCTILE IRON CL 52	LIN FT	$70.00	40	$2,800.00	10	$700.00							30	$2,100.00
2504.603	16" WATERMAIN DUCTILE IRON CL 52	LIN FT	$150.00	20	$3,000.00									20	$3,000.00
2504.604	4" POLYSTYRENE INSULATION	SQ YD	$40.00	134.9	$5,396.00	134.9	$5,396.00								
2506.502	CONST DRAINAGE STRUCTURE DESIGN SPECIAL	EACH	$5,000.00	4	$20,000.00	4	$20,000.00								
2506.502	CONST DRAINAGE STRUCTURE DESIGN SPEC 1	EACH	$10,000.00	1	$10,000.00	1	$10,000.00								
2506.502	CONST DRAINAGE STRUCTURE DESIGN SPEC 2	EACH	$10,000.00	1	$10,000.00	1	$10,000.00								
2506.502	CONST DRAINAGE STRUCTURE DESIGN SPEC 3	EACH	$10,000.00	1	$10,000.00	1	$10,000.00								
2506.502	CASTING ASSEMBLY	EACH	$750.00	137	$102,750.00	128	$96,000.00					2	$1,500.00	7	$5,250.00
2506.502	INSTALL CASTING	EACH	$675.00	1	$675.00	1	$675.00								
2506.502	ADJUST FRAME & RING CASTING	EACH	$425.00	15	$6,375.00	13	$5,525.00					1	$425.00	1	$425.00
2506.503	CONST DRAINAGE STRUCTURE DESIGN F	LIN FT	$270.00	334.6	$90,342.00	329.4	$88,938.00							5.2	$1,404.00
2506.503	CONST DRAINAGE STRUCTURE DESIGN G	LIN FT	$300.00	82.5	$24,750.00	72.9	$21,870.00							9.6	$2,880.00
2506.503	CONST DRAINAGE STRUCTURE DESIGN H	LIN FT	$250.00	111.4	$27,850.00	93.5	$23,375.00					3.3	$825.00	14.6	$3,650.00
2506.503	CONST DRAINAGE STRUCTURE DESIGN N	LIN FT	$300.00	55.8	$16,740.00	55.8	$16,740.00								
2506.503	CONST DRAINAGE STRUCTURE DESIGN SD-48	LIN FT	$400.00	14.6	$5,840.00	14.6	$5,840.00								
2506.503	CONST DRAINAGE STRUCTURE DES 48-4020	LIN FT	$300.00	76.9	$23,070.00	76.9	$23,070.00								
2506.503	CONST DRAINAGE STRUCTURE DES 60-4020	LIN FT	$425.00	19.8	$8,415.00	19.8	$8,415.00								
2506.503	CONST DRAINAGE STRUCTURE DES 66-4020	LIN FT	$500.00	75.4	$37,700.00	75.4	$37,700.00								
2506.503	CONST DRAINAGE STRUCTURE DES 72-4020	LIN FT	$600.00	54.6	$32,760.00	54.6	$32,760.00								
2506.503	CONST DRAINAGE STRUCTURE DES 78-4020	LIN FT	$700.00	6.5	$4,550.00	6.5	$4,550.00								
2506.503	CONST DRAINAGE STRUCTURE DES 84-4020	LIN FT	$800.00	13.6	$10,880.00	13.6	$10,880.00								
2506.503	RECONSTRUCT DRAINAGE STRUCTURE	LIN FT	$350.00	14.3	$5,005.00	14.3	$5,005.00								
2506.602	INSTALL MANHOLE	EACH	$1,750.00	1	$1,750.00	1	$1,750.00								
2511.504	GEOTEXTILE FILTER TYPE 4	SQ YD	$3.00	202.3	$606.90	202.3	$606.90								
2511.507	RANDOM RIPRAP CLASS II	CU YD	$70.00	33.3	$2,331.00	33.3	$2,331.00								
2511.507	RANDOM RIPRAP CLASS III	CU YD	$70.00	10	$700.00	10	$700.00								
2521.518	4" CONCRETE WALK	SQ FT	$5.00	76855	$384,275.00	70475	$352,375.00					1480	$7,400.00	4900	$24,500.00
2521.518	4" CONCRETE WALK SPECIAL	SQ FT	$9.00	26655	$239,895.00	15993	$143,937.00	10662	$95,958.00						
2521.518	6" CONCRETE WALK	SQ FT	$6.00	12910	$77,460.00	11735	$70,410.00					70	$420.00	1105	$6,630.00
2521.518	6" CONCRETE WALK SPECIAL	SQ FT	$8.00	1913	$15,304.00									1913	$15,304.00
2521.518	3" BITUMINOUS WALK	SQ FT	$5.00	65290	$326,450.00	64380	$321,900.00					450	$2,250.00	460	$2,300.00
2531.503	CONCRETE CURB & GUTTER DESIGN B612	LIN FT	$15.00	2170	$32,550.00	1000	$15,000.00							1170	$17,550.00
2531.503	CONCRETE CURB & GUTTER DESIGN B618	LIN FT	$15.00	5190	$77,850.00	3370	$50,550.00					580	$8,700.00	1240	$18,600.00
2531.503	CONCRETE CURB & GUTTER DESIGN B624	LIN FT	$18.00	22640	$407,520.00	22640	$407,520.00								
2531.503	CONCRETE CURB & GUTTER DESIGN B924	LIN FT	$25.00	260	$6,500.00									260	$6,500.00
2531.503	CONCRETE CURB & GUTTER DESIGN D424	LIN FT	$25.00	420	$10,500.00	420	$10,500.00								
2531.503	CONCRETE CURB DESIGN V6	LIN FT	$40.00	380	$15,200.00	380	$15,200.00								
2531.504	6" CONCRETE DRIVEWAY PAVEMENT	SQ YD	$60.00	1120	$67,200.00	920	$55,200.00					120	$7,200.00	80	$4,800.00
2531.504	8" CONCRETE DRIVEWAY PAVEMENT	SQ YD	$75.00	550	$41,250.00	390	$29,250.00							160	$12,000.00
2531.618	TRUNCATED DOMES	SQ FT	$50.00	1803	$90,150.00	1266	$63,300.00					12	$600.00	525	$26,250.00
2533.503	PORTABLE PRECAST CONC BARRIER DES B337	LIN FT	$50.00	150	$7,500.00	150	$7,500.00								
2540.602	FLAGPOLE	EACH	$3,500.00	24	$84,000.00			24	$84,000.00						
2540.602	BICYCLE RACK	EACH	$750.00	4	$3,000.00			4	$3,000.00						
2540.602	WASTE RECEPTACLE	EACH	$1,000.00	6	$6,000.00			6	$6,000.00						
2540.602	RECYCLING UNIT	EACH	$1,000.00	6	$6,000.00			6	$6,000.00						
2540.602	RELOCATE PLANTER	EACH	$1,500.00	2	$3,000.00									2	$3,000.00
2540.602	BOLLARD	EACH	$250.00	7	$1,750.00									7	$1,750.00
2540.602	BOLLARD TYPE A	EACH	$1,500.00	59	$88,500.00			59	$88,500.00						
2540.602	BOLLARD TYPE B	EACH	$1,850.00	2	$3,700.00			2	$3,700.00						

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EXHIBIT A

(A) 80% Federal, 15% Hennepin County, 5% Brooklyn Center

BROOKLYN BOULEVARD - ENGINEER'S ESTIMATE OF PROBABLE COST

ITEM NO.	ITEM DESCRIPTION	UNIT	UNIT PRICE	TOTAL PROJECT QUANTITIES		FEDERAL AID PARTICIPATING		FEDERAL AID NON PARTICIPATING							
						SP NOS. 027-752-032, 109-020-013, 141-020-118 (A)		LANDSCAPING SAP NOS. 027-752-032, 109-020-013				SAP 109-124-001		LOCAL	
								33% Hennepin County 67% Brooklyn Center		100% Brooklyn Center		51ST AVE		BROOKLYN CENTER METRO TRANSIT, TRPD	
				ESTIMATED	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST
2540.602	METAL BENCH	EACH	$2,500.00	7	$17,500.00			7	$17,500.00						
2540.602	COMMUNITY ENTRANCE MONUMENT TYPE A	EACH	$100,000.00	2	$200,000.00					2	$200,000.00				
2540.602	COMMUNITY ENTRANCE MONUMENT TYPE B	EACH	$25,000.00	1	$25,000.00					1	$25,000.00				
2540.603	LANDSCAPE EDGER	LIN FT	$9.00	855	$7,695.00			855	$7,695.00						
2545.501	LIGHTING SYSTEM "A"	LUMP SUM	$2,760.00	2	$5,520.00					2	$5,520.00				
2545.501	LIGHTING SYSTEM "B"	LUMP SUM	$2,760.00	1	$2,760.00					1	$2,760.00				
2545.502	LIGHTING UNIT TYPE SPECIAL	EACH	$5,510.00	26	$143,260.00	25	$137,750.00							1	$5,510.00
2545.502	LIGHTING UNIT TYPE SPECIAL 1	EACH	$7,100.00	3	$21,300.00	2	$14,200.00							1	$7,100.00
2545.502	LIGHTING UNIT TYPE SPECIAL 2	EACH	$7,100.00	9	$63,900.00	8	$56,800.00							1	$7,100.00
2545.502	LIGHT FOUNDATION DESIGN E MODIFIED	EACH	$1,100.00	61	$67,100.00	36	$39,600.00	24	$26,400.00					1	$1,100.00
2545.502	SERVICE CABINET -TYPE L1 (MOD)	EACH	$5,850.00	1	$5,850.00	1	$5,850.00								
2545.502	SERVICE CABINET -TYPE L2 (MOD)	EACH	$7,800.00	1	$7,800.00	1	$7,800.00								
2545.502	EQUIPMENT PAD B	EACH	$1,400.00	2	$2,800.00	2	$2,800.00								
2545.502	HANDHOLE	EACH	$2,000.00	32	$64,000.00	32	$64,000.00								
2545.503	2" RIGID STEEL CONDUIT	LIN FT	$33.00	148	$4,884.00	148	$4,884.00								
2545.503	1" NON-METALLIC CONDUIT	LIN FT	$6.00	682	$4,092.00	682	$4,092.00								
2545.503	2" NON-METALLIC CONDUIT	LIN FT	$6.00	11779	$70,674.00	11779	$70,674.00								
2545.503	2" NON-METALLIC COND (DIRECTIONAL BORE)	LIN FT	$17.00	184	$3,128.00	184	$3,128.00								
2545.503	3" NON-METALLIC CONDUIT	LIN FT	$10.00	545	$5,450.00	545	$5,450.00								
2545.503	3" NON-METALLIC COND (DIRECTIONAL BORE)	LIN FT	$40.00	160	$6,400.00	160	$6,400.00								
2545.503	UNDERGROUND WIRE 1/C 2 AWG	LIN FT	$4.50	763	$3,433.50	763	$3,433.50								
2545.503	UNDERGROUND WIRE 1/C 4 AWG	LIN FT	$3.00	839	$2,517.00	839	$2,517.00								
2545.503	UNDERGROUND WIRE 1/C 6 AWG	LIN FT	$1.00	283	$283.00	283	$283.00								
2545.503	UNDERGROUND WIRE 1/C 8 AWG	LIN FT	$1.00	128341	$128,341.00	128341	$128,341.00								
2545.503	UNDERGROUND WIRE 1/C 10 AWG	LIN FT	$1.50	267	$400.50	267	$400.50								
2545.503	DIRECT BURIED LIGHTING CABLE 4/C 4 AWG	LIN FT	$11.00	435	$4,785.00	435	$4,785.00								
2545.602	INSTALL LIGHTING UNIT	EACH	$725.00	2	$1,450.00	1	$725.00							1	$725.00
2554.502	GUIDE POST TYPE B	EACH	$55.00	12	$660.00	12	$660.00								
2554.502	END TREATMENT-TANGENT TERMINAL	EACH	$2,400.00	2	$4,800.00	2	$4,800.00								
2554.503	TRAFFIC BARRIER DESIGN TRANS TYPE 31	LIN FT	$65.00	50	$3,250.00	50	$3,250.00								
2554.615	IMPACT ATTENUATOR	ASSEMBLY	$2,000.00	2	$4,000.00	2	$4,000.00								
2557.502	METAL BRACE ASSEMBLY-CHAIN LINK FENCE	EACH	$350.00	4	$1,400.00	1	$350.00							3	$1,050.00
2557.502	ELECTRICAL GROUND	EACH	$175.00	1	$175.00									1	$175.00
2557.503	WIRE FENCE DESIGN 60-9322	LIN FT	$15.00	1030	$15,450.00	260	$3,900.00							770	$11,550.00
2557.603	ORNAMENTAL FENCE DESIGN SPECIAL	LIN FT	$150.00	284	$42,600.00			284	$42,600.00						
2563.601	TRAFFIC CONTROL SUPERVISOR	LUMP SUM	$10,000.00	1	$10,000.00	0.8	$8,000.00	0.1	$1,000.00					0.1	$1,000.00
2563.601	TRAFFIC CONTROL	LUMP SUM	$330,000.00	1	$330,000.00	0.82	$270,600.00	0.07	$23,100.00	0.03	$9,900.00	0.01	$3,300.00	0.07	$23,100.00
2563.602	TUBE DELINEATOR	EACH	$30.00	6	$180.00	6	$180.00								
2564.502	INSTALL SIGN TYPE C	EACH	$205.00	3	$615.00	3	$615.00								
2564.502	INSTALL SIGN TYPE D	EACH	$400.00	1	$400.00	1	$400.00								
2564.502	OBJECT MARKER TYPE X4-2	EACH	$130.00	21	$2,730.00	21	$2,730.00								
2564.502	OBJECT MARKER TYPE X4-4	EACH	$120.00	1	$120.00	1	$120.00								
2564.502	OBJECT MARKER TYPE X4-5	EACH	$80.00	2	$160.00	2	$160.00								
2564.518	SIGN PANELS TYPE C	SQ FT	$35.00	932.1	$32,623.50	915.1	$32,028.50							17	$595.00
2564.518	SIGN PANELS TYPE D	SQ FT	$35.00	74	$2,590.00	74	$2,590.00								
2564.602	INSTALL SIGN TYPE SPECIAL	EACH	$150.00	4	$600.00	4	$600.00								
2564.602	INSTALL SIGN SPECIAL	EACH	$5,000.00	1	$5,000.00									1	$5,000.00
2565.501	EMERGENCY VEHICLE PREEMPTION SYSTEM A	LUMP SUM	$11,000.00	1	$11,000.00	1	$11,000.00								
2565.501	EMERGENCY VEHICLE PREEMPTION SYSTEM B	LUMP SUM	$14,000.00	1	$14,000.00	1	$14,000.00								
2565.501	EMERGENCY VEHICLE PREEMPTION SYSTEM D	LUMP SUM	$11,000.00	1	$11,000.00	1	$11,000.00								
2565.501	EMERGENCY VEHICLE PREEMPTION SYSTEM E	LUMP SUM	$11,000.00	1	$11,000.00	1	$11,000.00								
2565.516	TRAFFIC CONTROL SIGNAL SYSTEM A	SYSTEM	$194,000.00	1	$194,000.00	1	$194,000.00								
2565.516	TRAFFIC CONTROL SIGNAL SYSTEM B	SYSTEM	$222,000.00	1	$222,000.00	1	$222,000.00								
2565.516	TRAFFIC CONTROL SIGNAL SYSTEM D	SYSTEM	$202,000.00	1	$202,000.00	1	$202,000.00								
2565.516	TRAFFIC CONTROL SIGNAL SYSTEM E	SYSTEM	$267,000.00	1	$267,000.00	1	$267,000.00								
2565.516	REVISE SIGNAL SYSTEM C	SYSTEM	$75,000.00	1	$75,000.00	1	$75,000.00								
2565.616	TEMPORARY SIGNAL SYSTEM D	SYSTEM	$106,000.00	1	$106,000.00	1	$106,000.00								
2565.616	TEMPORARY SIGNAL SYSTEM E	SYSTEM	$114,000.00	1	$114,000.00	1	$114,000.00								

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EXHIBIT A

(A) 80% Federal, 15% Hennepin County, 5% Brooklyn Center

3/30/2018

BROOKLYN BOULEVARD - ENGINEER'S ESTIMATE OF PROBABLE COST

ITEM NO.	ITEM DESCRIPTION		UNIT	UNIT PRICE	TOTAL PROJECT QUANTITIES		FEDERAL AID PARTICIPATING		FEDERAL AID NON PARTICIPATING							
							SP NOS. 027-752-032, 109-020-013, 141-020-118 (A)		LANDSCAPING SAP NOS. 027-752-032, 109-020-013				SAP 109-124-001		LOCAL	
									33% Hennepin County 67% Brooklyn Center		100% Brooklyn Center		51ST AVE		BROOKLYN CENTER METRO TRANSIT, TRPD	
					ESTIMATED	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST	QUANTITY	COST
2571.525	CONIFEROUS SHRUB 18" SPREAD CONT		SHRUB	$60.00	16	$960.00			16	$960.00						
2571.525	DECIDUOUS SHRUB NO 5 CONT		SHRUB	$60.00	87	$5,220.00			87	$5,220.00						
2571.527	PERENNIAL NO 1 CONT		PLANT	$20.00	5718	$114,360.00			5718	$114,360.00						
2573.501	STABILIZED CONSTRUCTION EXIT		LUMP SUM	$3,000.00	1	$3,000.00	0.8	$2,400.00	0.1	$300.00					0.1	$300.00
2573.501	EROSION CONTROL SUPERVISOR		LUMP SUM	$9,500.00	1	$9,500.00	0.8	$7,600.00	0.1	$950.00					0.1	$950.00
2573.502	STORM DRAIN INLET PROTECTION		EACH	$210.00	188	$39,480.00	173	$36,330.00					3	$630.00	12	$2,520.00
2573.502	CULVERT END CONTROLS		EACH	$225.00	7	$1,575.00	7	$1,575.00								
2573.503	SILT FENCE, TYPE HI		LIN FT	$2.00	30	$60.00									30	$60.00
2573.503	SILT FENCE, TYPE MS		LIN FT	$2.00	2080	$4,160.00	1950	$3,900.00							130	$260.00
2573.503	FILTER BERM TYPE 3		LIN FT	$28.00	150	$4,200.00	150	$4,200.00								
2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER		LIN FT	$4.00	1490	$5,960.00	1490	$5,960.00								
2573.502	SEDIMENT CONTROL STRUCTURE		EACH	$1,400.00	6	$8,400.00	6	$8,400.00								
2574.505	SUBSOILING		ACRE	$550.00	10.7	$5,885.00	10	$5,500.00					0.2	$110.00	0.5	$275.00
2574.505	SOIL BED PREPARATION		ACRE	$420.00	10.7	$4,494.00	10	$4,200.00					0.2	$84.00	0.5	$210.00
2574.507	ROOTING TOPSOIL BORROW		CU YD	$40.00	75	$3,000.00	75	$3,000.00								
2574.507	FILTER TOPSOIL BORROW		CU YD	$45.00	576	$25,920.00	576	$25,920.00								
2574.507	BOULEVARD TOPSOIL BORROW		CU YD	$45.00	1452	$65,340.00			1452	$65,340.00						
2574.508	FERTILIZER TYPE 3		POUND	$1.00	2480	$2,480.00	2250	$2,250.00					30	$30.00	210	$210.00
2574.508	FERTILIZER TYPE 4		POUND	$1.00	80	$80.00	80	$80.00								
2575.504	SODDING TYPE LAWN		SQ YD	$3.50	29970	$104,895.00	26420	$92,470.00					680	$2,380.00	2870	$10,045.00
2575.504	EROSION CONTROL BLANKETS CATEGORY 3N		SQ YD	$2.50	6740	$16,850.00	6560	$16,400.00							180	$450.00
2575.505	SEEDING	(P)	ACRE	$215.00	4.9	$1,053.50	4.6	$989.00							0.3	$64.50
2575.505	WEED SPRAYING		ACRE	$185.00	2.6	$481.00	2.4	$444.00							0.2	$37.00
2575.506	WEED SPRAY MIXTURE		GALLON	$150.00	1.4	$210.00	1.3	$195.00							0.1	$15.00
2575.508	SEED MIXTURE 25-131		POUND	$5.00	610	$3,050.00	610	$3,050.00								
2575.508	SEED MIXTURE 33-261		POUND	$25.00	20	$500.00	20	$500.00								
2575.508	SEED MIXTURE 35-221		POUND	$23.00	70	$1,610.00	60	$1,380.00							10	$230.00
2575.523	WATER		M GALLON	$15.00	1070	$16,050.00	856	$12,840.00	108	$1,620.00			20	$300.00	86	$1,290.00
2575.523	RAPID STABILIZATION METHOD 3		M GALLON	$125.00	64.2	$8,025.00	60	$7,500.00					1.2	$150.00	3	$375.00
2575.607	LANDSCAPE ROCK		CU YD	$100.00	2	$200.00	2	$200.00								
2581.603	REMOVABLE PREFORMED PAVEMENT MARKING TAPE		LIN FT	$1.50	5230	$7,845.00	5230	$7,845.00								
2582.503	4" SOLID LINE PAINT		LIN FT	$0.25	62540	$15,635.00	61940	$15,485.00							1000	$250.00
2582.503	12" SOLID LINE PAINT		LIN FT	$1.00	550	$550.00	550	$550.00								
2582.503	4" BROKEN LINE PAINT		LIN FT	$0.50	210	$105.00									210	$105.00
2582.503	4" DBLE SOLID LINE PAINT		LIN FT	$0.25	32320	$8,080.00	32320	$8,080.00								
2582.503	4" SOLID LINE MULTI COMP GR IN		LIN FT	$0.50	14110	$7,055.00	14020	$7,010.00					90	$45.00		
2582.503	6" SOLID LINE MULTI COMP GR IN		LIN FT	$0.60	2470	$1,482.00	2470	$1,482.00								
2582.503	8" SOLID LINE MULTI COMP GR IN		LIN FT	$0.80	140	$112.00	140	$112.00								
2582.503	24" SOLID LINE MULTI COMP GR IN		LIN FT	$2.00	220	$440.00	220	$440.00								
2582.503	4" BROKEN LINE MULTI COMP GR IN		LIN FT	$0.60	4080	$2,448.00	3890	$2,334.00							190	$114.00
2582.503	4" DBLE SOLID LINE MULTI COMP GR IN		LIN FT	$1.50	3860	$5,790.00	3510	$5,265.00					330	$495.00	20	$30.00
2582.503	4" DOTTED LINE MULTI COMP GR IN (WR)		LIN FT	$1.20	300	$360.00	300	$360.00								
2582.503	24" SOLID LINE PREF THERMO GR IN		LIN FT	$25.00	110	$2,750.00	110	$2,750.00								
2582.518	PAVT MSSG PAINT		SQ FT	$5.00	90	$450.00									90	$450.00
2582.518	PAVT MSSG PREF THERMO GR IN		SQ FT	$16.00	780	$12,480.00	750	$12,000.00					30	$480.00		
2582.518	PAVT MSSG PREF THERMO GR IN CONT		SQ FT	$17.00	180	$3,060.00	180	$3,060.00								
2582.518	CROSSWALK PREF THERMO GR IN		SQ FT	$10.00	4416	$44,160.00	4416	$44,160.00								
	ESTIMATED TOTAL COST					$10,645,174.90		$8,742,802.90		$701,063.00		$337,080.00		$91,160.00		$773,069.00

Roadway

80% Federal = $6,994,242.32
15% HC = $1,311,420.44
5% BC = $437,140.15

Landscaping 1

33% HC = $231,350.79
67% BC = $469,712.21

Landscaping 2

Local 1 (51st Ave)

Local 2 (BC/MT/TRPD)

BC = $659,909.11
MT = $100,419.89
TRPD = $12,740.00

MnDOT Contract No: 1030538

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
BROOKLYN CENTER
COOPERATIVE CONSTRUCTION
AGREEMENT

State Project Number (S.P.):	**2755-105**
Trunk Highway Number (T.H.):	**100=003**
State Project Number (S.P.):	**109-020-013**
State Project Number (S.P.):	**027-752-032**
City Project Number (C.P.):	**2018-05**
State Aid Project Number (S.A.P.):	**109-124-001**
City Project Number (C.P.):	**2018-06**
State Project Number (S.P.):	**141-020-118**
Federal Project Number:	**STPF 2718 (101)**
Lighting System Feed Point No.:	**H6H**
Signal System "B" ID:	**2110148**
Signal System "C" ID:	**1735649**

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This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and the City of Brooklyn Center acting through its City Council ("City").

Recitals

1. The City will perform grading, bituminous surfacing, ADA improvements, drainage, signal systems, and lighting construction and other associated construction upon, along and adjacent to County State Aid Highway No. 152 (Brooklyn Boulevard) from 500 feet south of 49th Avenue to 600 feet north of County State Aid Highway No. 10 (Bass Lake Road) according to City-prepared plans, specifications and special provisions designated by the City as City Project No. 2018-05 and City project No. 2018-06 and by the State as State Aid Project No. 109-124-001, State Project No. 109-020-013, State Project No. 027-752-032, State Project No. 141-020-118, and State Project No. 2755-105 (T.H. 100=003) ("Project"); and
2. The City requests the State allow the reconstruction of County State Aid Highway No. 152 (Brooklyn Boulevard) which includes grading, bituminous surfacing, ADA improvements, drainage, and signal systems on State Right-of-Way and the State is willing to allow said construction; and
3. Agreement No. 1030730 between the State, Brooklyn Center and Hennepin County will address signal system cost and maintenance; and
4. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

Agreement

1. Term of Agreement; Survival of Terms; Plans; Incorporation of Exhibits

1.1. ***Effective Date.*** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.

1.2. ***Expiration Date.*** This Agreement will expire when all obligations have been satisfactorily fulfilled.

1.3. ***Survival of Terms.*** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement,

including, without limitation, the following clauses: 2.4. State Ownership of Improvements; 5. Maintenance by the City; 8. Liability; Worker Compensation Claims; Insurance; 10. State Audits; 11. Government Data Practices; 12. Governing Law; Jurisdiction; Venue; and 14. Force Majeure.

1.4. ***Plans, Specifications, Special Provisions.*** State-approved City plans, specifications and special provisions designated by the City as City Project No. 2018-05 and City project No. 2018-06 and by the State as State Aid Project No. 109-124-001, State Project No. 109-020-013, State Project No. 027-752-032, State Project No. 141-020-118, and State Project No. 2755-105 (T.H. 100=003) are on file in the office of the City's Engineer and incorporated into this Agreement by reference ("Project Plans").

1.5. ***Exhibits.*** Exhibit "A" Drainage Maintenance is attached and incorporated into this Agreement. Exhibit "A" Limited Use Permit No. 2755-0200 is incorporated by reference.

2. **Right-of-Way Use**

2.1. ***Limited Right to Occupy.*** The State grants to the City (and its contractors and consultants) the right to occupy Trunk Highway Right-of-Way as necessary to perform the work described in the Project Plans. This right is limited to the purpose of constructing the project, and administering such construction, and may be revoked by the State at any time, with or without cause. Cause for revoking this right of occupancy includes, but is not limited to, breaching the terms of this or any other agreement (relevant to this project) with the State, failing to provide adequate traffic control or other safety measures, failing to perform the construction properly and in a timely manner, and failing to observe applicable environmental laws or terms of applicable permits. The State will have no liability to the City (or its contractors or consultants) for revoking this right of occupancy.

2.2. ***State Access; Suspension of Work; Remedial Measures.*** The State's District Engineer or assigned representative retains the right to enter and inspect the Trunk Highway Right-of-Way (including the construction being performed on such right-of-way) at any time and without notice to the City or its contractor. If the State determines (in its sole discretion) that the construction is not being performed in a proper or timely manner, or that environmental laws (or the terms of permits) are not being complied with, or that traffic control or other necessary safety measures are not being properly implemented, then the State may direct the City (and its contractor) to take such remedial measures as the State deems necessary. The State may require the City (and its contractors and consultants) to suspend their operations until suitable remedial action plans are approved and implemented. The State will have no liability to the City (or its contractors or consultants) for exercising its rights under this provision.

2.3. ***Traffic Control; Worker Safety.*** While the City (and its contractors and consultants) are occupying the State Right-of-Way, they must comply with the approved traffic control plan, and with applicable provisions of the Work Zone Field Handbook (http://www.dot.state.mn.us/trafficeng/workzone/index.html). All City, contractor, and consultant personnel occupying the State's Right-of-Way must be provided with required reflective clothing and hats.

2.4. ***State Ownership of Improvements.*** The State will retain ownership of its Trunk Highway Right-of-Way, including any improvements made to such right-of-way under this Agreement, unless otherwise noted. The warranties and guarantees made by the City's contractor with respect to such improvements (if any) will flow to the State. The City will assist the State, as necessary, to enforce such warranties and guarantees, and to obtain recovery from the City's consultants, and contractor (including its sureties) for non-performance of contract work, for design errors and omissions, and for defects in materials and workmanship. Upon request of the State, the City will undertake such actions as are reasonably necessary to transfer or assign contract rights to the State and to permit subrogation by the State with respect to claims against the City's consultants and contractors.

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3. Contract Award and Construction

3.1. *Direction, Supervision and Inspection of Construction.*

A. The contract construction will be under the direction of the City and under the supervision of a registered professional engineer; however, the State participation construction covered under this Agreement will be open to inspection by the State District Engineer's authorized representatives. The City will give the State Aid Agreements Engineer at Roseville five days' notice of its intention to start the contract construction.

B. Responsibility for the control of materials for the contract construction will be on the City and its contractor and will be carried out according to Specifications No. 1601 through and including No. 1609 in the State's current "Standard Specifications for Construction".

3.2. *Completion of Construction.* The City will cause the contract construction to be started and completed according to the time schedule in the construction contract special provisions. The completion date for the contract construction may be extended, by an exchange of letters between the appropriate City official and the State District Engineer's authorized representative, for unavoidable delays encountered in the performance of the contract construction.

3.3. *Compliance with Laws, Ordinances, Regulations.* The City will comply and cause its contractor to comply with all Federal, State and Local laws, and all applicable ordinances and regulations. With respect only to that portion of work performed on the State's Trunk Highway Right-of-Way, the City will not require the contractor to follow local ordinances or to obtain local permits.

4. Right-of-Way; Easements; Permits

4.1. The City will, without cost or expense to the State, obtain all rights-of-way, easements, construction permits and any other permits and sanctions that may be required in connection with the local and trunk highway portions of the contract construction. Before payment by the State, the City will furnish the State with certified copies of the documents for rights-of-way and easements, construction permits and other permits and sanctions required for State participation construction covered under this Agreement.

4.2. The City will convey to the State by quit claim deed, all newly acquired rights needed for the continuing operation and maintenance of the Trunk Highway, if any, upon completion of the Project, at no cost or expense to the State.

4.3. The City will comply with Minnesota Statutes § 216D.04, subdivision 1(a), for identification, notification, design meetings and depiction of utilities affected by the contract construction.

4.4. The City will submit to the State's Utility Engineer an original permit application for all utilities owned by the City of Brooklyn Center to be constructed upon and within the Trunk Highway Right-of-Way. Applications for permits will be made on State form "Application for Utility Permit on Trunk Highway Right-of-Way" (Form 2525).

4.5. *Limited Use Permit No. 2755-0200.* The City will obtain, through the District's Right-of-Way Area Manager, a Limited Use Permit to cover the City's liability responsibilities of the trail, community entrance monument, concrete maintenance strips, planter walls, bollards, and flag poles along Brooklyn Boulevard, Lilac Drive North, and the Trunk Highway No. 100 ramps to be constructed upon the State Right-of-Way.

5. Maintenance by the City

Upon completion of the project, the City will provide the following without cost or expense to the State:

5.1. *Roadways.* Maintenance of Lilac Drive North, Brooklyn Boulevard, and Brooklyn Boulevard Service Road. Maintenance includes, but is not limited to, snow, ice and debris removal, resurfacing and seal coating and any other maintenance activities according to accepted City maintenance practices.

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5.2. ***Storm Sewers.*** Routine maintenance of any storm sewer facilities construction. Routine maintenance includes, but is not limited to, removal of sediment, debris, vegetation and ice from grates and catch basins and any other maintenance activities necessary to preserve the facilities and to prevent conditions such as flooding, erosion, or sedimentation, this also includes informing the District Maintenance Engineer of any needed repairs. Exhibit "A" Drainage Maintenance will address State and City maintenance responsibilities.

5.3. ***Municipal Utilities.*** Maintenance of any municipal-owned utilities construction, without cost or expense to the State.

5.4. ***Sidewalks.*** Maintenance and ownership of any sidewalk construction, including stamped and colored concrete sidewalk (if any) and pedestrian ramps. Maintenance includes, but is not limited to, snow, ice and debris removal, patching, crack repair, panel replacement, cross street pedestrian crosswalk markings, vegetation control of boulevards (if any) and any other maintenance activities necessary to perpetuate the sidewalks in a safe, useable, and aesthetically acceptable condition. The State will maintain crosswalks at ramps which intersect with City roads. Exhibit "A" Limited Use Permit No. 2755-0200 will address a portion of the sidewalk maintenance.

5.5. ***Trails.*** Maintenance of any trail construction. Maintenance includes, but is not limited to, sweeping and debris removal, patching, crack repair, pavement replacement, vegetation control, signing, pavement markings, and any other maintenance activities necessary to perpetuate the bikeways and shared use paths in a safe and usable condition. Exhibit "A" Limited Use Permit No. 2755-0200 will address a portion of the trail maintenance.

5.6. ***Landscaping.*** Maintenance of shrubs, perennials including but not limited to deciduous, ornamental, and existing trees located in the southwest quadrant of Brooklyn Boulevard and Lilac Drive. The City will own, maintain, and remove any deceased trees or planting as necessary. Exhibit "A" Limited Use Permit No. 2755-0200 will address a portion of the landscaping maintenance.

5.7. ***Additional Drainage.*** Neither party to this Agreement will drain any additional drainage volume into the storm sewer facilities constructed under the construction contract that was not included in the drainage for which the storm sewer facilities were designed, without first obtaining written permission to do so from the other party.

6. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

6.1. The State's Authorized Representative will be:

Name/Title:	Maryanne Kelly-Sonnek, Cooperative Agreements Engineer (or successor)
Address:	395 John Ireland Boulevard, Mailstop 682, St. Paul, MN 55155
Telephone:	(651) 366-4634
E-Mail:	maryanne.kellysonnek@state.mn.us

6.2. The City's Authorized Representative will be:

Name/Title:	Mark Albers, City Engineer (or successor)
Address:	6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Telephone:	(763) 569-3494
E-Mail:	malbers@ci.brooklyn-center.mn.us

7. Assignment; Amendments; Waiver; Contract Complete

7.1. ***Assignment.*** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

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7.2. *Amendments.* Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.

7.3. *Waiver.* If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.

7.4. *Contract Complete.* This Agreement contains all prior negotiations and agreements between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

8. Liability; Worker Compensation Claims; Insurance

8.1. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City. Notwithstanding the foregoing, the City will indemnify, hold harmless, and defend (to the extent permitted by the Minnesota Attorney General) the State against any claims, causes of actions, damages, costs (including reasonable attorneys fees), and expenses arising in connection with the project covered by this Agreement, regardless of whether such claims are asserted by the City's contractor(s) or consultant(s) or by a third party because of an act or omission by the City or its contractor(s) or consultant(s).

8.2. Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

8.3. The City may require its contractor to carry insurance to cover claims for damages asserted against the City's contractor.

9. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

10. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

11. Government Data Practices

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this Agreement. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City or the State.

12. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

13. Termination; Suspension

13.1. *By Mutual Agreement.* This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.

13.2. *Termination for Insufficient Funding.* The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at

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a level sufficient to allow for the payment or the provision of the services covered here. Termination must be by written or fax notice to the City. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

13.3. ***Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance and payments authorized through this Agreement.

14. Force Majeure

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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CITY OF BROOKLYN PARK

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

Recommended for Approval:

By: _____
(District Engineer)

Date: _____

Approved:

By: _____
(State Design Engineer)

Date: _____

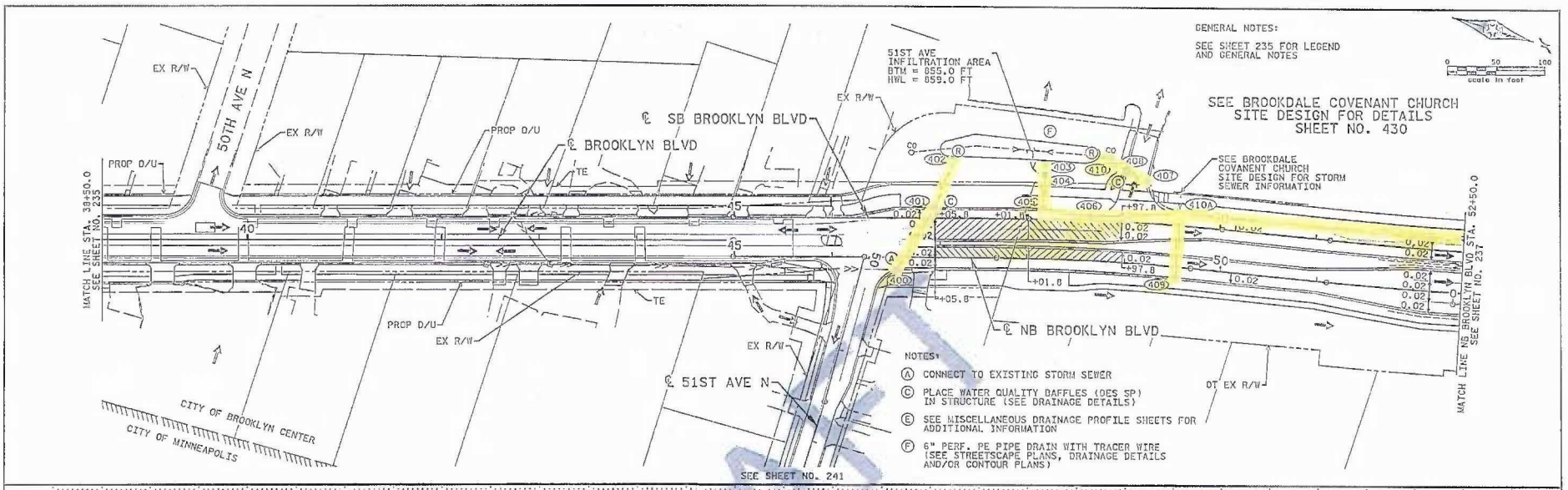
COMMISSIONER OF ADMINISTRATION

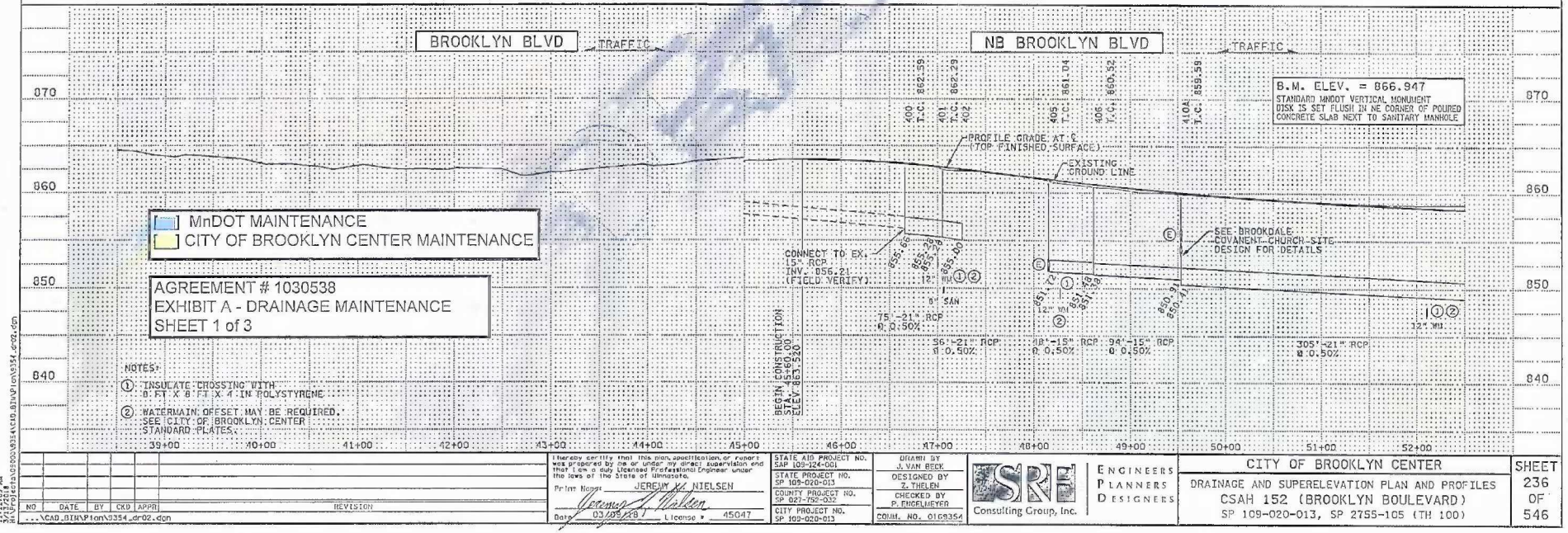
By: _____
(With Delegated Authority)

Date: _____

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INCLUDE COPY OF RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.





NO	DATE	BY	CKD	APPR	REVISION

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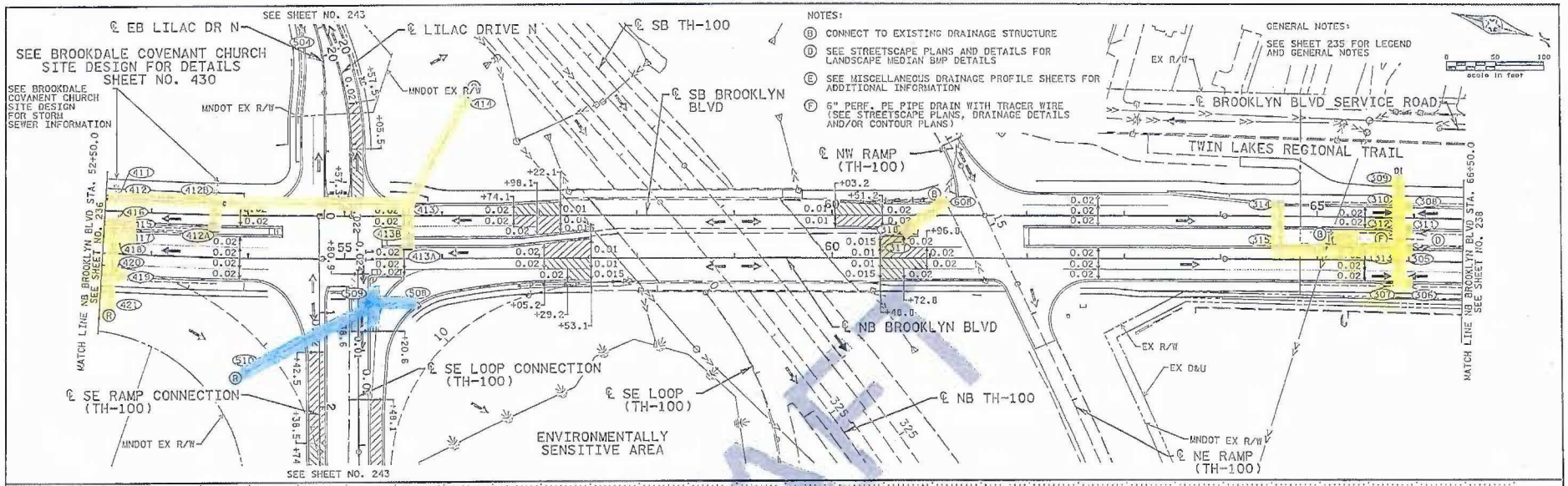
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Printed Name: JEREMY M. NIELSEN
Date: 03/09/18 License # 45047

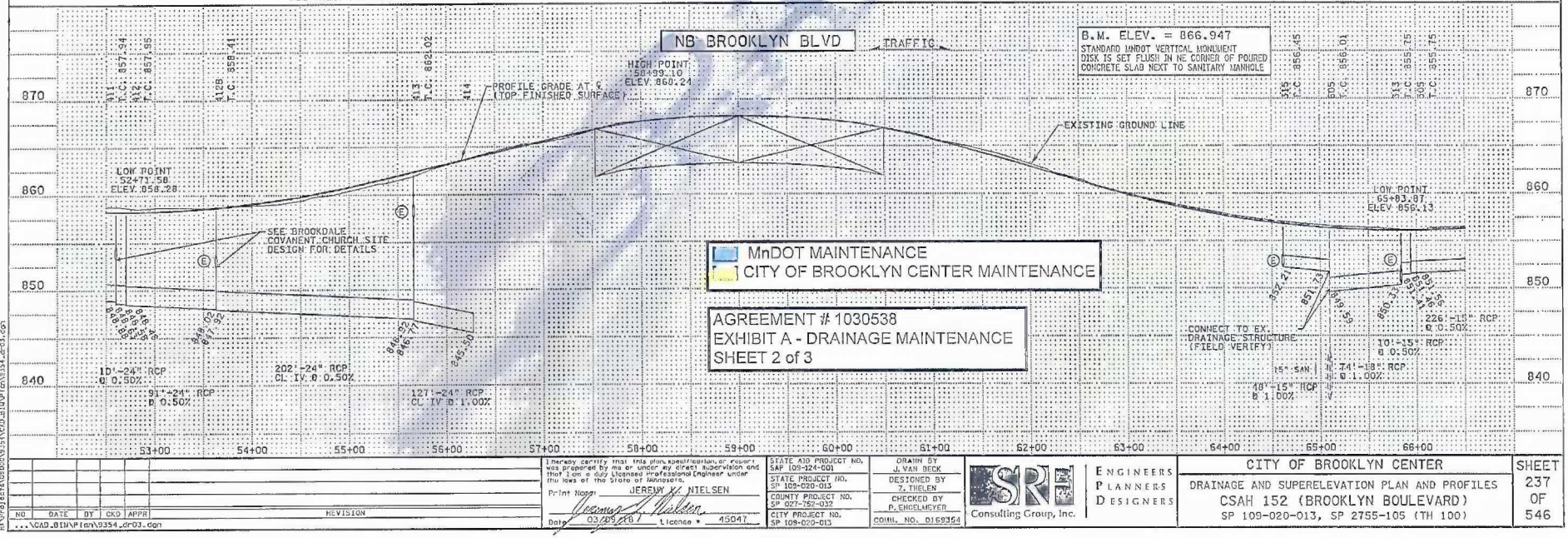
STATE AID PROJECT NO.	SAP 109-124-001
STATE PROJECT NO.	SP 109-020-013
COUNTY PROJECT NO.	SP 027-752-032
CITY PROJECT NO.	SP 109-020-013
DRAWN BY	J. VAN BECK
DESIGNED BY	Z. THELEN
CHECKED BY	P. ENGELMEYER
COMM. NO.	0169354

SRF Consulting Group, Inc.
ENGINEERS PLANNERS DESIGNERS

CITY OF BROOKLYN CENTER
DRAINAGE AND SUPERELEVATION PLAN AND PROFILES
CSAH 152 (BROOKLYN BOULEVARD)
SP 109-020-013, SP 2755-105 (TH 100)

SHEET 236 OF 546





I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Print Name: JEREMY J. NIELSEN
Date: 03/09/2018 License # 45047

STATE AID PROJECT NO. SAP 109-124-001	DRAWN BY J. VAN BECK
STATE PROJECT NO. SP 109-020-013	DESIGNED BY J. THELEN
COUNTY PROJECT NO. SP 027-752-032	CHECKED BY P. ENGELMEYER
CITY PROJECT NO. SP 109-020-013	COMM. NO. 0169354

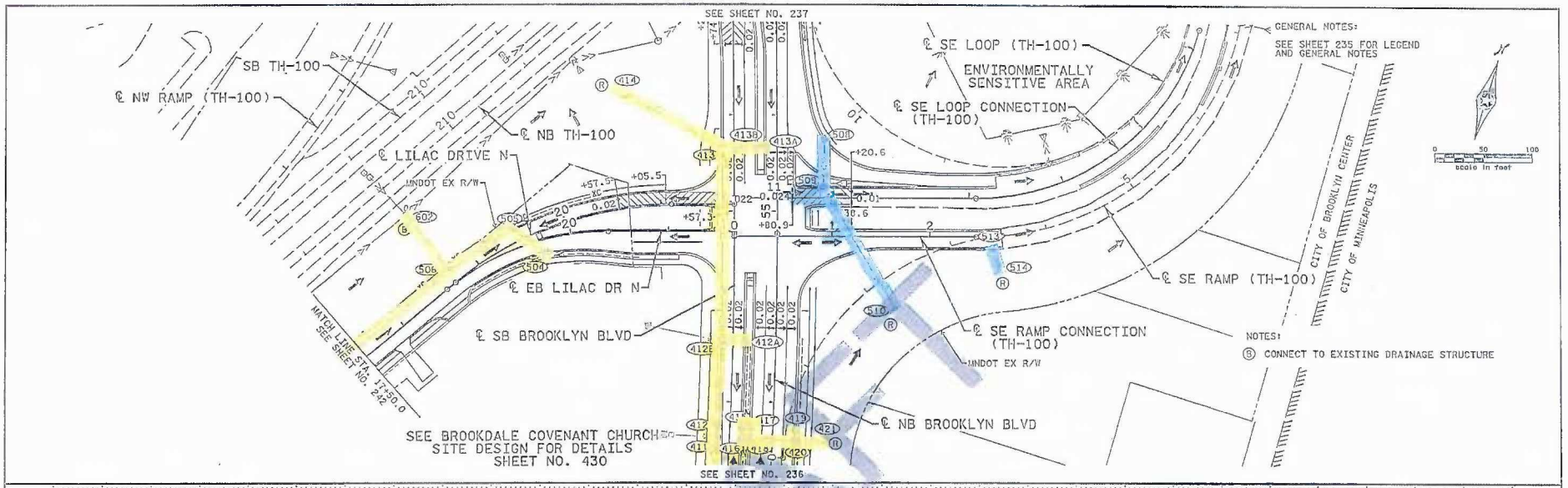
SRE Consulting Group, Inc.
ENGINEERS PLANNERS DESIGNERS

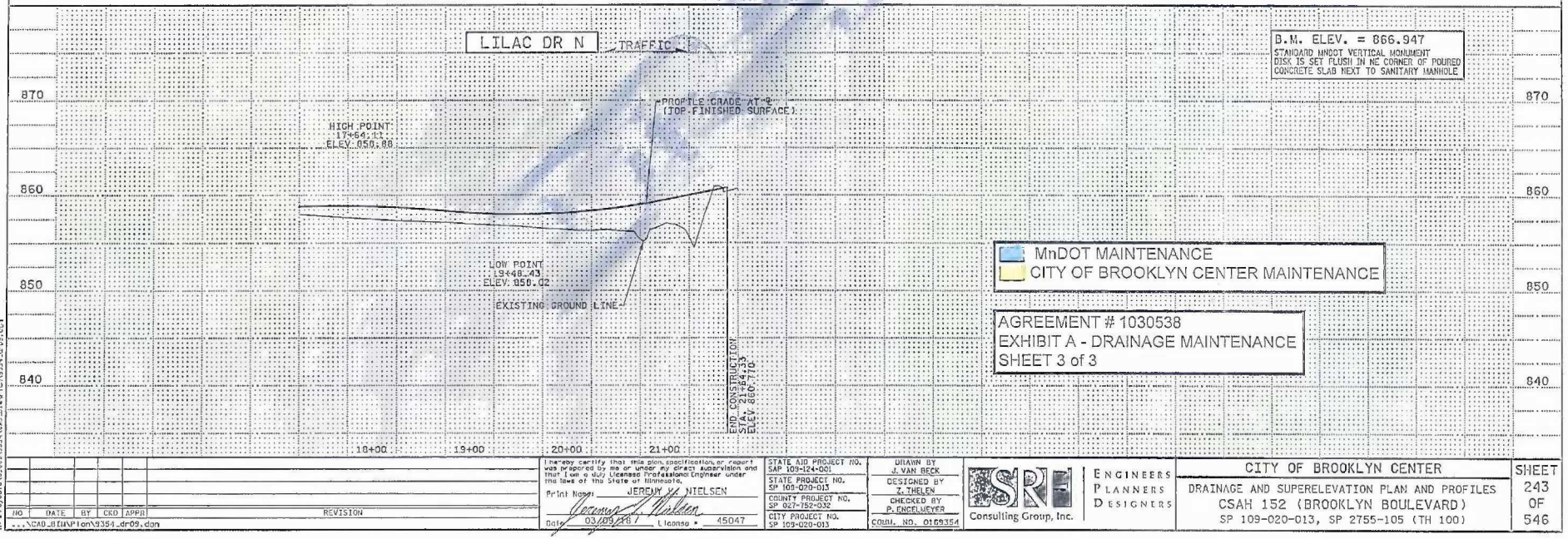
CITY OF BROOKLYN CENTER
DRAINAGE AND SUPERELEVATION PLAN AND PROFILES
CSAH 152 (BROOKLYN BOULEVARD)
SP 109-020-013, SP 2755-105 (TH 100)

SHEET 237 OF 546

NO	DATE	BY	CKD	APPR	REVISION

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STANDARD MNDOT VERTICAL MONUMENT DISK IS SET FLUSH IN NE CORNER OF POURED CONCRETE SLAB NEXT TO SANITARY MANHOLE

MnDOT MAINTENANCE
CITY OF BROOKLYN CENTER MAINTENANCE

AGREEMENT # 1030538
EXHIBIT A - DRAINAGE MAINTENANCE
SHEET 3 of 3

NO	DATE	BY	CKD	APPR	REVISION
...\CAD_DESCRIPTION\9354_dr09.dgn					

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Print Name: JEREMY W. NIELSEN
Date: 03/09/18 License # 45047

STATE AID PROJECT NO. SAP 109-124-001	
STATE PROJECT NO. SP 109-020-013	
COUNTY PROJECT NO. SP 027-752-032	
CITY PROJECT NO. SP 109-020-013	
DRAWN BY J. VAN BECK	
DESIGNED BY J. THELEN	
CHECKED BY P. ENGELMEYER	
COMM. NO. 0169354	

SRF Consulting Group, Inc.
ENGINEERS PLANNERS DESIGNERS

CITY OF BROOKLYN CENTER
DRAINAGE AND SUPERELEVATION PLAN AND PROFILES
CSAH 152 (BROOKLYN BOULEVARD)
SP 109-020-013, SP 2755-105 (TH 100)

SHEET 243 OF 546

11/12/2018 3:17:27 PM
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MnDOT Contract No: **1030730**

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
CITY OF BROOKLYN CENTER
And
HENNEPIN COUNTY
TRAFFIC CONTROL SIGNAL
MAINTENANCE AGREEMENT

Control Section (C.S.):	**2755**
State Project Number (S.P.):	**109-020-013**
Trunk Highway Number (T.H.):	**100=003**
State Aid Project Number (S.A.P.):	**109-024-001**
Federal Project Number:	**STPF 2718(101)**
Signal System "B" ID:	**2110148**
Signal System "C" ID:	**1735649**

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and the City of Brooklyn Center acting through its City Council ("City") and Hennepin County acting through its Board of Commissioners ("County").

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Recitals

1. The City, County, and the State wish to define their respective operation and maintenance responsibilities for the traffic control signals with signal pole mounted luminaires, Accessible Pedestrian Signals ("APS") and signing ("Signal Systems") and Emergency Vehicle Pre-emption Systems ("EVP Systems"), on the Trunk Highway No. 100 south ramp at County State Aid Highway (C.S.A.H.) 152 (Brooklyn Boulevard), and on the Trunk Highway No. 100 north ramp at C.S.A.H. 152 (Brooklyn Boulevard); and the Interconnect on C.S.A.H. 152 (Brooklyn Boulevard) from the Trunk Highway No. 100 south ramp to the Trunk Highway No. 100 north ramp in the City of Brooklyn Center, Hennepin County, Minnesota; and
2. A separate agreement between the State and the City of Brooklyn Center will address cooperative construction cost responsibilities; and
3. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

Agreement

1. Term of Agreement; Survival of Terms

1.1. ***Effective Date.*** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.

1.2. ***Expiration Date.*** This Agreement will expire when all obligations have been satisfactorily fulfilled.

1.3. ***Survival of Terms.*** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 5. Liability; Worker Compensation Claims; Insurance; 7. State Audits; 8. Government Data Practices; 9. Governing Law; Jurisdiction; Venue; and 11. Force Majeure. The terms and conditions set forth in Article 2. Signal Systems and EVP Systems Operation and Maintenance may be terminated by another Agreement between the parties.

2. Signal Systems and EVP Systems Operation and Maintenance

Operation and maintenance responsibilities will be as follows for the Signal Systems and EVP Systems on the T.H. 100 south ramp at C.S.A.H. 152 (Brooklyn Boulevard) (Signal System "B"), and on the T.H. 100 north ramp at C.S.A.H. 152 (Brooklyn Boulevard) (Signal System "C"), and for the Interconnect on C.S.A.H. 152 (Brooklyn Boulevard) from the T.H. 100 south ramp to the T.H. 100 north ramp.

2.1. *City Responsibilities.*

A. ***Power.*** The City will be responsible for the hook-up cost and application to secure an adequate power supply to the service pads or poles and will pay all monthly electrical service expenses necessary to operate the Signal Systems, EVP Systems, and Interconnect.

B. ***Minor Signal System Maintenance.*** The City will provide for the following, without cost to the State.

i. Maintain the signal pole mounted LED luminaires, including replacing the luminaires when necessary. The LED luminaire must be replaced when it fails or when light levels drop below recommended AASHTO levels for the installation.

2.2. *County Responsibilities.*

A. ***Interconnect; Other Maintenance.*** The County will maintain the Interconnect, including pigtails to the MnDOT cabinets.

B. ***Minor Signal System Maintenance.*** The County will provide for the following, without cost to the State.

i. Replace the Signal Systems LED indications. Replacing LED indications consists of replacing each LED indication when it reaches end of life per the MnDOT Traffic Engineering Manual or fails or no longer meets Institute of Traffic Engineers (ITE) standards for light output.

ii. Clean the Signal Systems and luminaire mast arm extensions.

iii. Paint and maintain the C.S.A.H. 152 (Brooklyn Boulevard) pedestrian crosswalk markings.

2.3. ***State Responsibilities.*** Operation and maintenance activities covered below are the responsibility of the State and will be performed by the State. State's payment is subject to an encumbrance of funds for signal operation and maintenance work.

A. ***Interconnect; Timing; Other Maintenance.*** The State will maintain the signing, and perform all other Signal System, APS, and signal pole luminaire circuit maintenance. All Signal System timing will be determined by the State.

B. ***EVP System(s) Operation.*** The EVP System(s) will be installed, operated, maintained, and removed according to the following conditions and requirements:

i. All maintenance of the EVP System(s) will be done by State forces.

ii. Emitter units may be installed only on authorized emergency vehicles, as defined in Minnesota Statutes § 169.011, Subdivision 3. Authorized emergency vehicles may use emitter units only when responding to an emergency. The City or County will provide the State's District Engineer or their designated representative a list of all vehicles with emitter units, if requested by the State.

iii. Malfunction of the EVP System(s) must be reported to the State immediately.

iv. In the event the EVP System(s) or its components are, in the opinion of the State, being misused or the conditions set forth in Paragraph ii. above are violated, and such misuse or violation continues after the City or County receives written notice from the State, the State may remove the EVP System(s). Upon removal of the EVP System(s) pursuant to this Paragraph, all of its parts and components become the property of the State.

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v. All timing of the EVP System(s) will be determined by the State.

2.4. ***Right-of-Way Access.*** Each party authorizes the other party to enter upon their respective public right-of-way to perform the maintenance activities described in this Agreement.

2.5. ***Related Agreements.*** This Agreement will supersede and terminate Agreement No. 87808R, dated August 9th, 2005, between the parties.

3. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

3.1. The State's Authorized Representative will be:

Name/Title: Greg Kern, MnDOT Metropolitan District Traffic Engineering (or successor)
Address: 1500 County Road B2 West, Roseville, MN 55113
Telephone: (651) 234-7877
E-Mail: gregory.kern@state.mn.us

3.2. The City's Authorized Representative will be:

Name/Title: Mike Albers, City Engineer (or successor)
Address: 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Telephone: (763) 569-3326
Fax: (763) 569-3494
E-Mail: malbers@ci.brooklyn-center.mn.us

3.3. The County's Authorized Representative will be:

Name/Title: Nathan Ellingson, Hennepin County Transportation (or successor)
Address: 1600 Prairie Drive, Medina, MN 55340
Telephone: (612) 596-0375
Fax: (612) 321-3410
E-Mail: nathan.ellingson@hennepin.us

4. Assignment; Amendments; Waiver; Contract Complete

4.1. ***Assignment.*** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

4.2. ***Amendments.*** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.

4.3. ***Waiver.*** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.

4.4. ***Contract Complete.*** This Agreement contains all prior negotiations and agreements between the State, the City and County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

5. Liability; Worker Compensation Claims; Insurance

5.1. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City and County.

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5.2. Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

6. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

7. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City and County's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

8. Government Data Practices

The City, County, and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City or County under this Agreement. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City, County or the State.

9. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

10. Termination; Suspension

10.1. ***By Mutual Agreement.*** This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.

10.2. ***Termination for Insufficient Funding.*** The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City or County. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the City or County will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

10.3. ***Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

11. Force Majeure

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

[The remainder of this page has been intentionally left blank]

DRAFT

MnDOT Contract No: **1030730**

CITY OF BROOKLYN CENTER

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DRAFT

HENNEPIN COUNTY
The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

Approved:

By: _____
(Chair of County Board) Date

And: _____
(County Administrator) Date

And: _____
(Assistant County Administrator, Public Works) Date

Approved as to form:

By: _____
(Assistant County Attorney) Date

Approved as to execution:

By: _____
(Assistant County Attorney) D

Attest by: _____
(Deputy/Clerk of County Board) D

Recommended for Approval:

By: _____
(Director, Transportation Department and County Engineer) Date

DEPARTMENT OF TRANSPORTATION

Recommended for Approval:

By: _____
(District Engineer)

Date: _____

Approved:

By: _____
(State Design Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With delegated authority)

Date: _____

DRAFT

INCLUDE COPY OF RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

LIMITED USE PERMIT

C.S. 2755 (T.H. 100)
County of Hennepin
LUP # 2755-0200
Permittee: City of Brooklyn Center
Terminates: 02/16/2028

In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its Commissioner of Transportation, ("MnDOT"), hereby grants a Limited Use Permit (the "LUP") to City of Brooklyn Center, ("Permittee"), to use the area within the right of way of Trunk Highway No. 100 as shown in red on Exhibit "A", (the "Area") attached hereto and incorporated herein by reference. This Limited Use Permit is executed by the Permittee pursuant to resolution, a certified copy of which is attached hereto as Exhibit B.

Non-Motorized Recreational Trail

The Permittee's use of the Area is limited to only the constructing, maintaining and operating a nonmotorized recreational trail ("Facility") and the use thereof may be further limited by 23 C.F.R. 652 also published as the Federal-Aid Policy Guide.

In addition, the following special provisions shall apply:

SPECIAL PROVISIONS

1. TERM. This LUP terminates at 11:59PM on 02/16/2028 ("Expiration Date") subject to the right of cancellation by MnDOT, with or without cause, by giving the Permittee ninety (90) days written notice of such cancellation. This LUP will not be renewed except as provided below.

   Provided this LUP has not expired or terminated, MnDOT may renew this LUP for a period of up to ten (10) years, provided Permittee delivers to MnDOT, not later than ninety (90) days prior to the Expiration Date, a written request to extend the term. Any extension of the LUP term will be under the same terms and conditions in this LUP, provided:

   (a) At the time of renewal, MnDOT will review the Facility and Area to ensure the Facility and Area are compatible with the safe and efficient operation of the highway and the Facility and Area are in good condition and repair. If, in MnDOT's sole determination,

modifications and repairs to the Facility and Area are needed, Permittee will perform such work as outlined in writing in an amendment of this LUP; and

(b) Permittee will provide to MnDOT a certified copy of the resolution from the applicable governmental body authorizing the Permittee's use of the Facility and Area for the additional term.

If Permittee's written request to extend the term is not timely given, the LUP will expire on the Expiration Date.

Permittee hereby voluntarily releases and waives any and all claims and causes of action for damages, costs, expenses, losses, fees and compensation arising from or related to any cancellation or termination of this LUP by MnDOT. Permittee agrees that it will not make or assert any claims for damages, costs, expenses, losses, fees and compensation based upon the existence, cancellation or termination of the LUP. Permittee agrees not to sue or institute any legal action against MnDOT based upon any of the claims released in this paragraph.

2. REMOVAL. Upon the Expiration Date or earlier termination, at the Permittee's sole cost and expense Permittee will:

(a) Remove the Facility and restore the Area to a condition satisfactory to the MnDOT District Engineer; and

(b) Surrender possession of the Area to MnDOT.

If, without MnDOT's written consent, Permittee continues to occupy the Area after the Expiration Date or earlier termination, Permittee will remain subject to all conditions, provisions, and obligations of this LUP, and further, Permittee will pay all costs and expenses, including attorney's fees, in any action brought by MnDOT to remove the Facility and the Permittee from the Area.

3. CONSTRUCTION. The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.

Before construction of any kind, the plans for such construction shall be approved in writing by the MnDOT's District Engineer. Approval in writing from MnDOT District Engineer shall be required for any changes from the approved plan.

The Permittee will construct the Facility at the location shown in the attached Exhibit "A", and in accordance with MnDOT-approved plans and specifications. Further, Permittee will construct the Facility using construction procedures compatible with the safe and efficient operation of the highway.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.

The Permittee shall preserve and protect all utilities located on the lands covered by this LUP at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

4. MAINTENANCE. Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.

5. USE. Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this LUP shall remain subordinate to the right of MnDOT to use the property for highway and transportation purposes. This LUP does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge Facility that would become subject to Section 4 (f) of the Federal-Aid Highway Act of 1968, nor does this permit establish a Bikeway or Pedestrian way which would require replacement pursuant to Minnesota Statutes Section 160.264. No rights to relocation benefits are established by this LUP.

This LUP is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

6. APPLICABLE LAWS. This LUP does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.

Permittee at its sole cost and expense, agrees to comply with, and provide and maintain the Area, Facilities in compliance with all applicable laws, rules, ordinances and regulations issued by any federal, state or local political subdivision having jurisdiction and authority in connection with said Area including the Americans with Disabilities Act ("ADA"). If the Area and Facilities are not in compliance with the ADA or other applicable laws MnDOT may enter the Area and perform such obligation without liability to Permittee for any loss or damage to Permittee thereby incurred, and Permittee shall reimburse MnDOT for the cost thereof, plus 10% of such cost for overhead and supervision within 30 days of receipt of MnDOT's invoice.

7. CIVIL RIGHTS. The Permittee for itself, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are constructed, maintained, or otherwise operated on the Property described in this Limited Use Permit for a purpose for which a MnDOT activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Permittee will maintain and operate such improvements and services in compliance with all requirements imposed by the Acts and Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation, Federal Highway Administration, (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or limited English proficiency will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said improvements.

8. SAFETY. MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this LUP is granted, so as to maintain the safety of both the motoring public and Facility users.

9. ASSIGNMENT. No assignment of this LUP is allowed.

10. IN WRITING. Except for those which are set forth in this LUP, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this LUP.

11. ENVIRONMENTAL. The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State's right of way. In the event of spillage of regulated materials, the Permittee shall notify in writing MnDOT's District Engineer and shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.

12. MECHANIC'S LIENS. The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account of any work done or materials furnished by it or any of them under any agreement or any amendment or supplement thereto.

13. NOTICES. All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows: to Permittee at: and to MnDOT at:

City of Brooklyn Center
City Hall

State of Minnesota
Department of Transportation

6301 Shingle Creek Pkwy
Brooklyn Center, MN 55430

Metro District Right of Way
1500 W. County Road B2
Roseville, MN 55113

The address to which notices are mailed may be changed by written notice given by either party to the other.

14. INDEMNITY. Permittee shall defend, indemnify, hold harmless and release the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns, from and against:

(a) all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Permittee's property) occurring on the Facility or connected with Permittee's use and occupancy of the Area, except those arising directly from a negligent act or omission of the State of Minnesota;

(b) claims arising or resulting from the temporary or permanent termination of Facility user rights on any portion of highway right of way over which this LUP is granted;

(c) claims resulting from temporary or permanent changes in drainage patterns resulting in flood damages;

(d) any laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever filed or maintained for or on account of any work done or materials furnished; and

(e) any damages, testing costs and clean-up costs arising from spillage of regulated materials attributable to the construction, maintenance or operation of the Facility; and

(f) nothing herein shall be interpreted as a limitation on any immunity provided under Minnesota Statutes, Chapter 466, or common law.

MINNESOTA DEPARTMENT
OF TRANSPORTATION

RECOMMENDED FOR APPROVAL

By:_____
District Engineer

Date_____

CITY OF BROOKLYN CENTER

By_____
Its Mayor

And_____
Its City Administrator

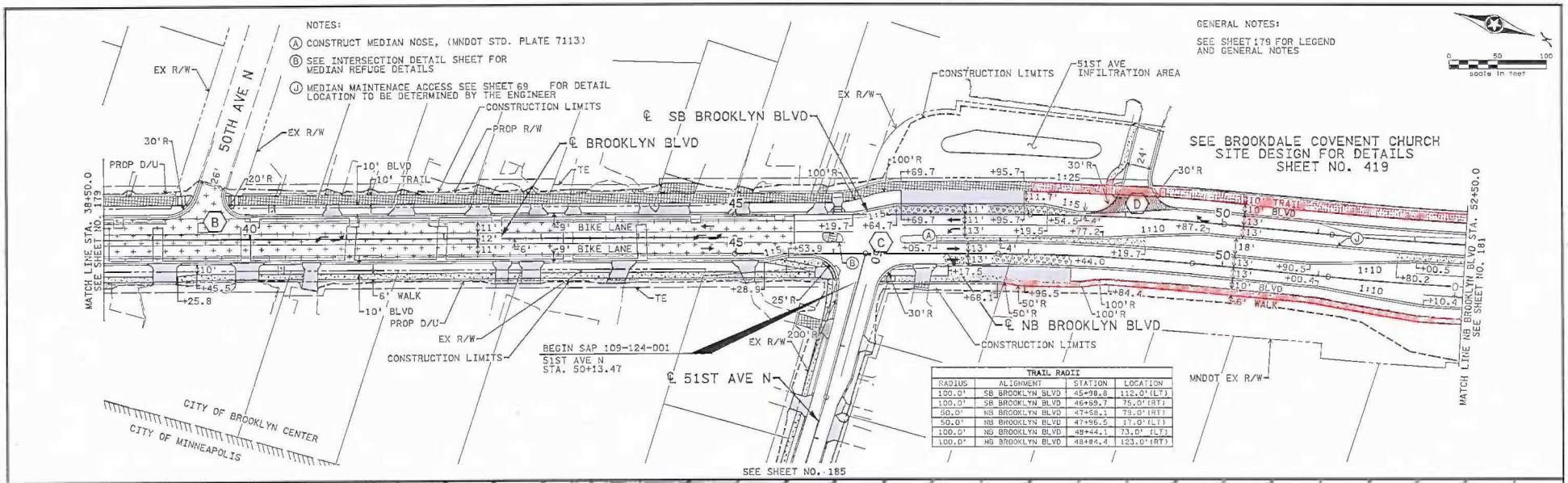
APPROVED BY:

COMMISSIONER OF TRANSPORTATION

By:_____
Director, Office of Land Management

Date_____

The Commissioner of Transportation by the execution of this permit certifies that this permit is necessary in the public interest and that the use intended is for public purposes.



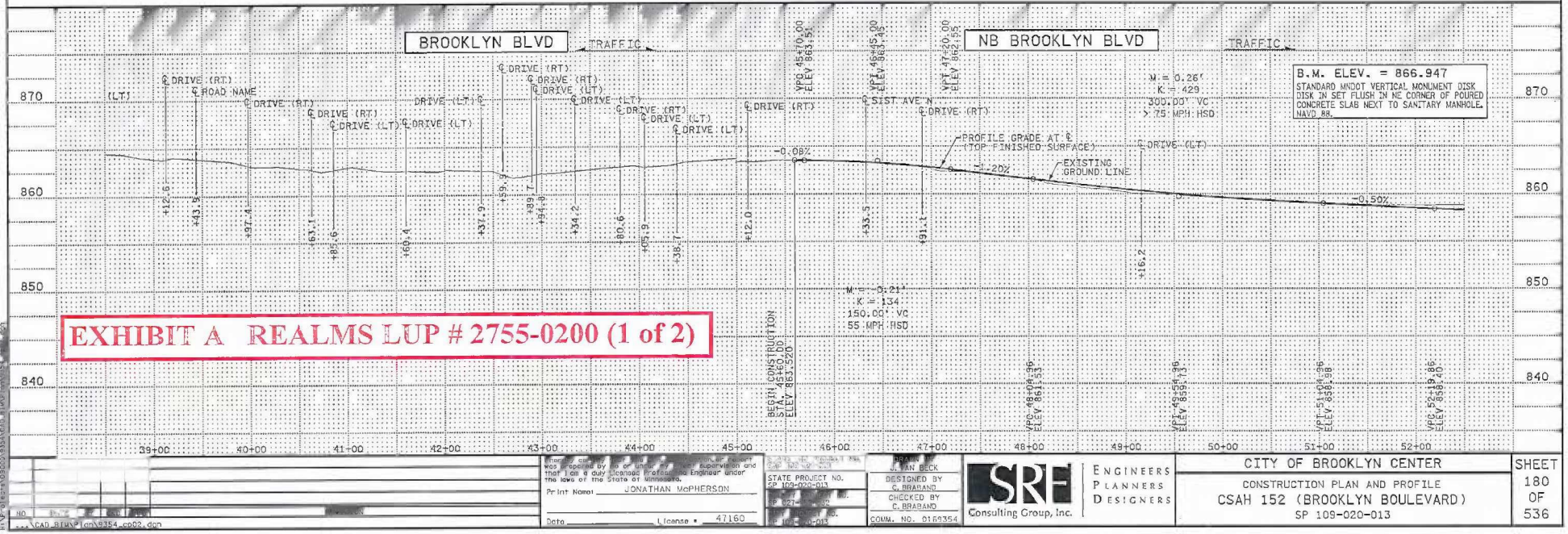


EXHIBIT A REALMS LUP # 2755-0200 (1 of 2)

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: JONATHAN McPHERSON

Date: _____ License #: 47160

STATE PROJECT NO. SP 109-020-013

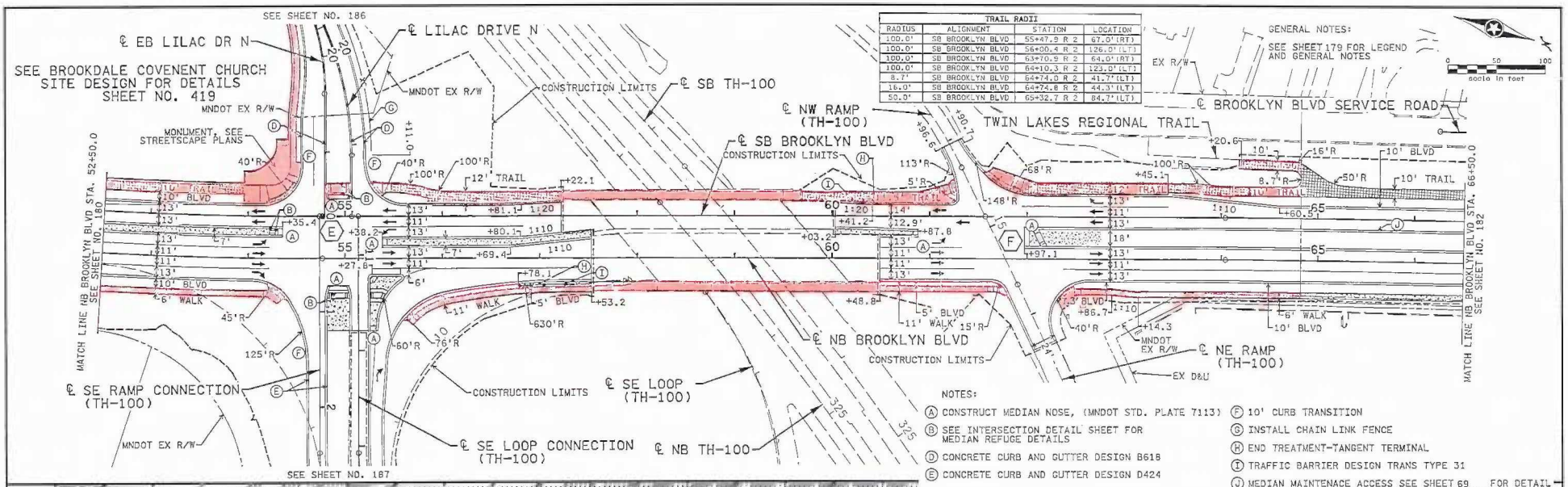
DRAWN BY J. VAN BECK
DESIGNED BY C. BRABAND
CHECKED BY C. BRABAND
COMM. NO. 0169354

SRF Consulting Group, Inc. | Engineers Planners Designers

CITY OF BROOKLYN CENTER
CONSTRUCTION PLAN AND PROFILE
CSAH 152 (BROOKLYN BOULEVARD)
SP 109-020-013

SHEET 180 OF 536

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TRAIL RADII			
RADIUS	ALIGNMENT	STATION	LOCATION
100.0'	SB BROOKLYN BLVD	55+47.9 R 2	67.0'(RT)
100.0'	SB BROOKLYN BLVD	56+00.4 R 2	126.0'(LT)
100.0'	SB BROOKLYN BLVD	63+70.9 R 2	64.0'(RT)
100.0'	SB BROOKLYN BLVD	64+10.3 R 2	123.0'(LT)
8.7'	SB BROOKLYN BLVD	64+74.0 R 2	41.7'(LT)
16.0'	SB BROOKLYN BLVD	64+74.8 R 2	44.3'(LT)
50.0'	SB BROOKLYN BLVD	65+32.7 R 2	84.7'(LT)

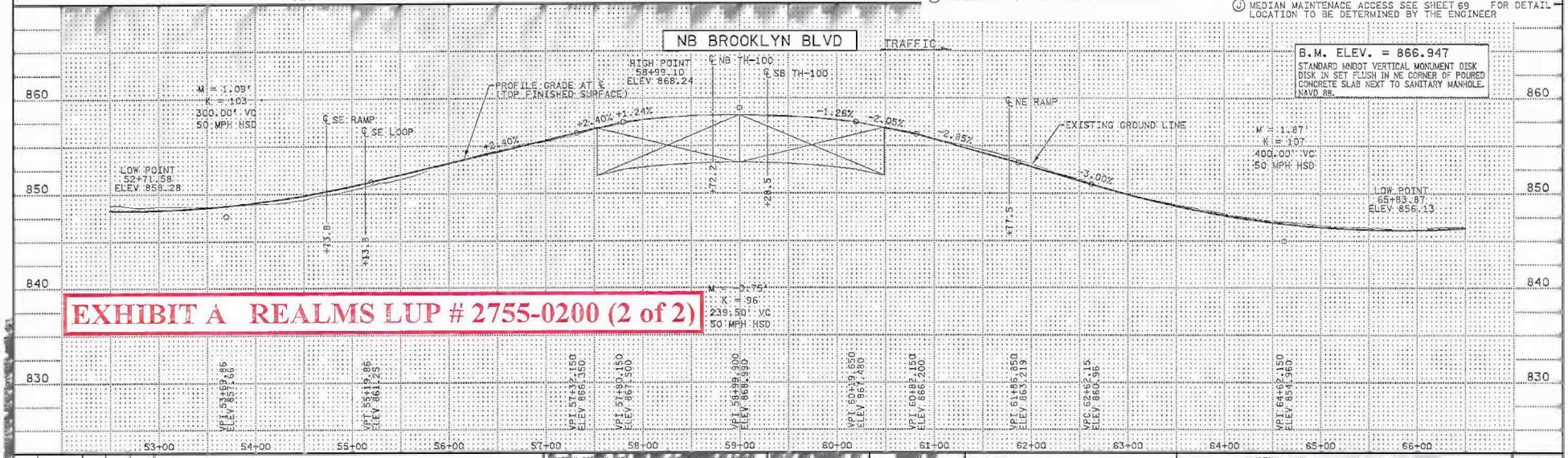


EXHIBIT A REALMS LUP # 2755-0200 (2 of 2)

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: JONATHAN McPHERSON

Date: _____ License # 47160

J. VAN BECK
DESIGNED BY C. BRABAND
CHECKED BY C. BRABAND
COMM. NO. 0169354

SRF Consulting Group, Inc. — Engineers Planners Designers

CITY OF BROOKLYN CENTER
CONSTRUCTION PLAN AND PROFILE
CSAH 152 (BROOKLYN BOULEVARD)
SP 109-020-013

SHEET 181 OF 536

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City Council Agenda Item No. 6e

COUNCIL ITEM MEMORANDUM

DATE: May 8, 2018

TO: Curt Boganey, City Manager

FROM: Doran Cote, P.E., Director of Public Works

SUBJECT: Resolution Authorizing Execution of Joint Powers Agreement with National Cooperative Purchasing Alliance

Recommendation:
It is recommended that the City Council consider approval of a resolution authorizing execution of a Joint Powers Agreement with National Cooperative Purchasing Alliance (NCPA).

Background:
NCPA is a leading national government purchasing cooperative working to reduce the cost of goods and services by leveraging the purchasing power of public agencies in all 50 states. NCPA utilizes state of the art procurement resources and solutions that result in cooperative purchasing contracts that ensure all public agencies are receiving products and services of the highest quality at the lowest prices.

NCPA works with a lead public agency who competitively solicits master contracts. Contracts are based on quality, performance, and most importantly pricing. These contracts are established using the following process:

- The Lead Agency issues a competitive solicitation for a product or service on behalf of NCPA and all public agencies.
- The solicitation is advertised nationally for a minimum of 30 days.
- The solicitation contains language that allows the contract to be accessible nationally to public agencies in states whose laws allow for intergovernmental contract use (also known as "piggybacking" or "adopting").
- Vendors respond to the solicitation with sealed responses that are recorded and publicly opened.
- The Lead Agency evaluates the responses based on "Identified Evaluation Criteria" and awards contracts.

There are over 90,000 agencies nationwide from both the public and nonprofit sectors that are eligible to utilize NCPA's cooperative purchasing contracts. These include, but are not limited to the following agency types:

- School Districts (including K-12, Charter schools, and Private K-12)
- Higher Education (including Universities, Community Colleges, Private Colleges and Technical/Vocational Schools)
- Cities, Counties and any Local Government
- State Agencies
- Healthcare Organizations
- Church/Religious/Nonprofit
- Federal

COUNCIL ITEM MEMORANDUM

Budget Issues:
There are no budget issues to consider. Items to be purchased from NCPA will be evaluated for quality, performance and pricing and will be compared to other available joint purchasing organizations, State of Minnesota and Hennepin County contracts and vendor proposals.

Strategic Priorities:
- Resident Economic Stability

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF JOINT POWERS AGREEMENT WITH NATIONAL COOPERATIVE PURCHASING ALLIANCE

WHEREAS, National Cooperative Purchasing Alliance (NCPA) works with a lead public agency who competitively solicits master contracts and contracts are based on quality, performance and most importantly pricing; and

WHEREAS, the Lead Agency issues a competitive solicitation for a product or service on behalf of NCPA and all public agencies; and

WHEREAS, the solicitation is advertised nationally for a minimum of 30 days; and

WHEREAS, the solicitation contains language that allows the contract to be accessible nationally to public agencies in states whose laws allow for intergovernmental contract use.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the Mayor and City Manager are hereby authorized and directed for and on behalf of the City of Brooklyn Center to execute and enter into Joint Powers Agreement with National Cooperative Purchasing Alliance.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

NCPA
National Cooperative Purchasing Alliance

Master Intergovernmental Cooperative Purchasing Agreement

This agreement is made between a government agency that executes a Lead Agency Certificate ("Lead Agency") to be appended and made a part hereof and other public agencies ("Participating Public Agencies") that register electronically with National Cooperative Purchasing Alliance ("NCPA") or otherwise execute a Participating Public Agency Certificate to be appended and made a part hereof.

Recitals

WHEREAS, after a competitive solicitation and selection process by Lead Agency, in compliance with their own policies, procedures, rules and regulations, a number of Vendors have entered into Master Agreements to provide a variety of goods, products and services based on national volumes (herein "Products");

WHEREAS, Master Agreements are made available by Lead Agency through NCPA and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Lead Agency, subject to any applicable local purchasing ordinances and the laws of the State of purchase;

NOW, THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products.
2. That the procurement of Products subject to this agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules and regulations that govern each party's procurement practices.
3. That the cooperative use of bids obtained by a party to this agreement shall be in accordance with the terms and conditions of the bid, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
4. That the Lead Agencies will make available, upon reasonable request and subject to convenience, information which may assist in improving the procurement of products by the Participating Public Agencies.
5. That a procuring party will make timely payments to the Vendor for Products received in accordance with the terms and conditions of the procurement. Payment for Products and inspections and acceptance of Products ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.
6. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
7. The procuring party shall be responsible for the ordering of Products under this agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring party harmless from any liability that may arise from action or inaction of the procuring party.

8. This agreement shall remain in effect until termination by a party giving 30 days written notice to the other party. The provisions of paragraphs 5, 6 and 7 hereof shall survive any such termination.
9. This agreement shall take effect after execution of the Lead Agency Certificate or Participating Public Agency Registration, as applicable.

City Council Agenda Item No. 6f

COUNCIL ITEM MEMORANDUM

DATE: April 26, 2018

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Kelli Wick, Human Resources Director

SUBJECT: Resolution Amending the City's Personnel Rules and Regulations

Recommendation:
It is recommended that the City Council consider adoption of the resolution amending the City's Personnel Rules and Regulations

Background:
The Personnel Rules and Regulations were last updated November 2005. Updates were made periodically to remain in compliance with State Statute; however, the manual was in need of review and update to most sections. Attached is a copy of the updated version, as well as, the old 2005 version. The attached old 2005 version has been marked up (i.e. underline means additions and strikes means deletions) to show the changes between the updated version and the old version.

Staff has been working for over a year to review every section and term of the personnel policy. Review of the old and revised personnel policy included multiple rounds of review by:

- City Manager
- Deputy City Manager
- HR Director
- Legal
- Organizational Leadership (i.e. department heads and divisional managers)

In addition, comparisons of key areas of the personnel policy manual was made other jurisdictions and insight on recent changes in the human resource industry norms was sought from the State and the League of Minnesota Cities.

The vast majority of the updates were made to clarify language either by adding additional explanation or by making it be more concise or for consistency with State Statute purposes. Some new sections were added for consistency purposes with State Statute, changes with human resource industry standards and the strategic values of the City of Brooklyn Center. The key additions include:

- Respectful Workplace
- Reclassification/Job Analysis
- Sick Leave Donation Program
- Employee Volunteer Leave

Sections that were no longer applicable to the City were removed including Retiree Health Savings Plan.

COUNCIL ITEM MEMORANDUM

Budget Issues:
There are no budget issues relating to the updates.

Strategic Priorities:
- Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION AMENDING THE CITY'S PERSONNEL POLICY

WHEREAS, on November 14, 2005, the City Council adopted the City's Personnel Rules and Regulations by Resolution No. 2005-163; and

WHEREAS, the City Council finds that it is in the public interest to update personnel policies for city employees.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center that the City's Personnel Policies be and hereby are amended.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

City of Brooklyn Center

Personnel Policy

2018

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SECTION 1 - PURPOSE

1.1 Purpose

The purpose of these policies is to provide a uniform, comprehensive and efficient system of personnel administration for the City of Brooklyn Center.

1.2 Adoption & Amendment

These policies and regulations were prepared and recommended by the City Manager in accordance with the administrative code and other applicable laws. The City of Brooklyn Center reserves the right to unilaterally modify the personnel rules, policy and administrative code.

1.3 Administration

Personnel policies are administered by the City Manager who is directly accountable to the City Council. The City Manager may establish administrative polices and rules as may be appropriate to administer the employment practices of the City. The City Manager is also responsible for administration of personnel policies adopted by Council. The Manager is directed to develop and provide the necessary forms, procedures, and instruction for the implementation of policies. The City Manager has the authority to interpret, develop, change, add and delete policies. The City Manager shall make every appointment to a position of City employment, except when state law, City Charter or ordinance otherwise provides. Each appointment shall be based on merit and qualifications for the position as determined by the City Manager. Except as otherwise provided by state law, City Charter, or ordinance, the City Manager or designee shall make all decisions regarding discipline of City employees, including suspension and termination.

1.4 Savings Clause

If a personnel regulation is held invalid by judicial or legislative action, the remainder of these rules will not be affected.

1.5 Department Rules

In accordance with these policies, each department head may establish written departmental rules of procedure that do not conflict with these regulations, to cover unique circumstances. Departmental rules and/or policy must be approved in writing by the City Manager prior to implementation.

1.6 Application - Positions

Unless otherwise indicated herein, all employees (regular full and part-time), offices and positions with the City are subject to the provisions of these policies except the following:

A. Elected officials
B. Members of appointed boards and commissions
C. City Manager
D. City Attorney
E. Persons engaged under contract to supply expert, professional, technical, or any other services
F. Other positions so designated

1.7 At-Will Employment

All City employees are hired on an at-will basis, which means that the employer can discharge an employee at any time for any reason, with or without notice, and the employee can resign at any time for any reason, with or without notice.

1.8 Employment Guidelines

These policies are guidelines for the City and its employees regarding City employment. It **does not constitute an employment contract.** The City reserves the right to change any personnel policy at any time at its discretion.

1.9 Labor Agreements

With respect to employees whose positions are included in a collective bargaining unit, provisions of the applicable collective bargaining agreements negotiated pursuant to the Public Employment Labor Relations Act MS 179A.01-179A.25, supersede these policies on any subject area covered by both the collective bargaining agreement and these policies. The City Manager is signatory to any collective bargaining agreement applicable to employees covered.

1.10 Management Rights

The City, through the City Manager, retains the full and unrestricted right to operate and manage all personnel, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct, and determine the number of personnel; to establish work schedules, and to perform any inherent managerial function not specifically limited by current collective bargaining agreements, these regulations, and City Council resolutions.

1.11 Work Rules and Policies

These policies describe work conduct expected of all City of Brooklyn Center employees. These may be expanded upon or modified from time-to-time as deemed appropriate by the City Manager. Such additional or modified work rules or policies will be communicated to employees.

No attempt has been made here to address all possible work situations or to identify every possible form of employee misconduct. Employees of the City of Brooklyn Center are expected to exercise reasonable and proper judgment in all aspects of their employment and to conduct themselves in a responsible, business-like manner at all times. Conduct that has a negative effect upon the City, or its safe and productive operation, or other persons, is prohibited.

1.12 Wage Disclosure

Under the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages. While the Minnesota Government Data Practices Act (Minn. Stat. §13.43), specifically lists an employee's actual gross salary and salary range as public personnel data, Minnesota law also requires wage disclosure protection rights and remedies to be included in employer personnel handbooks. To that end and in accordance with Minn. Stat. §181.172, the City may not:

A. Require nondisclosure by an employee of his or her wages as a condition of employment.
B. Require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wages.
C. Take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.
D. Retaliate against an employee for asserting rights or remedies under Minn. Stat. §181.172, subd. 3.

The city cannot retaliate against an employee for disclosing his/her own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the city and/or file a complaint with the Minnesota Department of Labor and Industry at (651) 284-5070 or (800) 342-5354.

SECTION 2 - DEFINITIONS

Unless otherwise indicated, the following words and terms have meanings indicated below:

Appointing Authority
The City Manager or other City employee to whom the Manager has delegated authority to appoint personnel.

Appointment
A regular assignment to a paid position in the City service.

City
The City of Brooklyn Center.

Days
Calendar day; including Saturday, Sunday, and holidays unless otherwise specified.

Demotion
A change of an employee's status from a position in one job class to a position in another job class with less responsible duties and could result in a lower salary range.

Department Head
Those who are responsible for management of a department as determined by the City Manager, City Charter or ordinance.

Employee
A person holding a paid position in the City service.

Employment Status

A. **Regular**
Refers to employees who have successfully completed their probationary period of employment with the City. These employees may work varying numbers of hours per week and they are regularly scheduled for a set number of hours per week. The work they perform is of an on-going nature as approved by the City Manager

B. **Regular Full-time**
An employee in a position classified to work a 40-hour workweek and was hired for an indefinite service duration approved by the City Manager

C. **Regular Part-time**
An employee in a position classified to work less than 40 hours per week on a regular basis for an indefinite service duration approved by the City Manager.

D. **Non-regular**
Refers to employment in the following categories: temporary, seasonal, student or intern. Non-regular employees are not eligible for City employee benefits.

E. **Temporary Full-time**
An employee who works a 40 hour workweek, whose employment is limited by duration

of a specific project or task; temporary employees may not be appointed for a period to exceed 24 consecutive months.

F. **Temporary Part-time**
An employee who works less than a 40-hour work week and whose employment is limited by duration of the specific project or task, not to exceed 24 consecutive months.

G. **Seasonal**
An employee who works for a limited duration (100 days or less) to conduct seasonal work. Seasonal employees are typically hired for program or project- based seasonal activities.

H. **Student or Intern**
An employee who is enrolled full-time in a public, non-profit or private educational institution or who has completed such course work. The work schedule of the student or intern will be developed by the City Manager or department head based on the needs of the department and the educational requirements. Students or interns may work on a part-time or full-time basis or both without a limitation on the length of employment but typically not more than two years.

I. **Probationary Employee**
An employee, who is serving a probationary period in a position which the employee was appointed, promoted, demoted, reclassified or reinstated.

FLSA
Fair Labor Standards Act which is a federal law regarding minimum wage and overtime compensation, classifying positions as exempt or non-exempt

A. **Exempt Employee**
Employee specifically exempt from the overtime compensation provisions of the state or federal FLSA (Fair Labor Standards Act) as defined and limited by administrative rules and regulations; these employees generally have as their primary duty management, administration, or work of a professional nature.

B. **Non-exempt**
Employees who are entitled to a minimum wage and overtime compensation pursuant to state or federal Fair Labor Standards Act.

Immediate Family
The immediate family includes the following individuals of the employee and the employee's spouse: mother, father, siblings, spouse, children and grandparents unless specifically stated otherwise.

Layoff
A separation of employees necessitated by lack of work, lack of funds, the abolition of a position, organization change, or any other management reason.

Military Leave
The leave of absence granted by state or federal law to employees entering active duty in the armed forces of the United States.

Overtime
All hours actually worked in excess of 40 by a regular non-exempt employee in a workweek consisting of seven consecutive days (168 hours.) Definition does not include public safety positions.

Position
A group of current duties and responsibilities requiring the full-time or part-time employment of one person.

Probationary Period
A six to twelve month working trial period.

Promotion
A change of an employee from a position of one job class to a position of another job class with more responsible duties and a higher salary range.

Reclassification
A change in classification of an individual position by raising it to a higher job class, reducing it to a lower job class, or moving it to another class at the same level on the basis of significant changes in kind, difficulty or responsibility of the work performed in such a position as approved by the City Manager.

Veteran
A person defined as a veteran by Minnesota Statutes, Section 197.447.

Veteran's Preference
The preference granted to veterans by Minnesota Statutes.

Workday
Eight (8) hours, to be used for full time calculation of benefits, leave, etc. unless otherwise specified.

SECTION 3 - CONDUCT AND ETHICS

3.1 Sexual Harassment Prevention

This sexual harassment policy applies to all officials and employees of the City including regular full-time and regular part-time employees, elected and appointed officials, temporary, seasonal and non-regular employees, employees covered or exempted from personnel rules or regulations, and independent contractors and consultants.

Sexual harassment is a form of sex discrimination prohibited by state and federal law. Employees have the right to a workplace free of sexual harassment.

The City will not tolerate sexual harassment of its employees by anyone including supervisors, other employees, officials or citizens. Persons harassing others will be promptly and firmly disciplined. All personnel must become familiar and comply with this policy.

A. Definition of Sexual Harassment

Sexual harassment includes, but is not limited to, unwelcome sexual advances, request for sexual favors, sexually motivated physical contact, or communication of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment or public service;
2. Submission to or rejection of such conduct by an employee is used as the basis for an employment decision such as promotion, assignment, demotion, discipline, or discharge;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

B. Examples of Sexual Harassment

Sexual harassment may include, but is not limited to:

1. Verbal harassment (e.g., sexually-oriented comments, innuendoes, or derogatory remarks);
2. Physical harassment (e.g., unwelcome touching, gestures, assault, impeding one's movement or other physical contact that an employee finds offensive);
3. Visual forms of harassment (e.g., derogatory posters, letters, poems, graffiti, cartoons or drawings); or
4. Requests for sexual favors or unwelcome sexual advances.

C. Reporting Procedure

Employees who believe they have experienced sexual harassment or who know of conduct they believe might constitute sexual harassment toward an employee, are required to report it to their supervisor or department head, the Human Resources Director or the City Manager or designee for gender inclusion representation. The Supervisor or a Department Head who receives the report should inform the Human Resources Director or the City Manager in confidence as soon as possible. If any employee directly receives an oral or written complaint from an alleged

victim of sexual harassment, he or she must immediately forward the complaint to the Human Resources Director or the City Manager or direct the alleged victim to report the incident. Failure to forward a report of alleged sexual harassment to the appropriate person could result in disciplinary action against the person who neglected to make the report.

D. Investigation and Recommendation

Upon receiving any report alleging sexual harassment, the Human Resources Director or City Manager will conduct an investigation. To the extent possible, the allegations and investigation will be kept confidential. An alleged victim may have a staff person of the same gender present during all contacts with the Human Resources Director. The alleged victim and any witnesses may be asked to put their reports in writing.

If the facts are found to support the allegations, the harasser will be subject to disciplinary action up to and possibly including immediate termination depending on the circumstances and severity of the harassment. The Human Resources Director may report on the investigation and its results to the City Manager. The City will keep a complete record of the nature of the complaint, its investigation and its resolution.

Pending completion of the investigation, the designated personnel representative may take any appropriate action necessary to protect the alleged victim, other employees, or citizens.

Anyone who makes a false complaint of sexual harassment or anyone who gives false information during a sexual harassment investigation could also be subject to disciplinary action up to and including immediate termination.

The City may also discipline any individual who retaliates against a person who testifies, assists or participates in any manner in a sexual harassment investigation. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

3.2 Respectful Workplace

This policy is to maintain a respectful work and public-service environment free from violence and other offensive or degrading remarks or conduct. The City will not tolerate such behavior by or toward any employee or official. Any employee or official of the City who engages in such behavior is subject to consequences.

A. Definition of Inappropriate Workplace Conduct

All employees and officials are prohibited from engaging in behavior that interferes with a professional, productive, respectful working environment, including behavior that is disrespectful, obscene, inappropriate, violent or offensive. Prohibited behavior includes, but is not limited to:

1. Offensive, disrespectful, or obscene remarks about or conduct relating to another employee or member of the public;
2. Behavior that includes the use of physical force or intimidation when the impact causes physical or emotional pain, fear, or hurt or a reasonable fear of the same;
3. The abuse of power or authority, including verbal abuse, toward other employees or members of the public;
4. Making threatening remarks, swearing or gestures;
5. Intentionally damaging or threatening to damage employer property or the property of another employee, or member of the public;
6. Deliberate or careless conduct endangering the safety of other employees.

B. Reporting a Complaint

1. City employees and officials should report concerns or complaints about inappropriate workplace conduct to their Supervisor, the Human Resources Director, or the City Manager.
2. Supervisors must report concerns or complaints about inappropriate workplace conduct to the Human Resources Director or the City Manager.
3. Depending upon the nature and seriousness of the allegation or complaint, the Human Resources Director or City Manager will determine the scope of any investigation or follow-up procedures.
4. Individuals found to have violated this policy may be subject to discipline, up to and including dismissal.
5. No retaliatory action will be taken against any person who makes a complaint about or reports inappropriate workplace conduct.

3.3 Drug and Alcohol Testing

It is the City's policy to provide a drug-free, safe, and secure work environment. No employee may be under the influence of, use, manufacture, possess, sell, or transfer drugs or alcohol while the employee is working, on City property, or operating a City vehicle, machinery, or equipment, except to the extent authorized by a valid medical prescription. This Policy shall be interpreted consistently with Minn. Stat. Sec. 181.950 *et seq.* and applicable federal law.

A. Reporting

Employees must report, to their department head, any conviction under a criminal drug statute for violations occurring on or off work premises during the employee's workday or while conducting City business. A report of the conviction must be made within five days after the conviction as required by the Federal Drug-free Workplace Act of 1988.

B. Types of Testing

The City Manager or Human Resources Director may order the drug and alcohol testing. All employees and job applicants are subject to drug and alcohol testing in the following circumstances:

1. **Job Applicant Testing**
The City may require that all applicants who have received conditional offers of employment undergo drug and alcohol testing. If the offer of conditional employment is subsequently withdrawn, the City will notify the applicant of the reason for the withdrawal.

2. **Routine Physical Examination Testing**
Any employee may be required to undergo drug and alcohol testing as part of a routine physical examination. The drug or alcohol test will be requested no more than once annually and the employee will be given at least two weeks' written notice that the test shall be required as part of the examination.

3. **Random Testing** An employee in a position in which impairment caused by drug or alcohol usage would threaten the health or safety of any person may be required to undergo random drug and alcohol testing. In addition, employees who are required to have a commercial driver's license, are subject to random testing as required by federal law.

4. **Reasonable Suspicion Testing**
Any employee may be required to undergo drug and alcohol testing if there is a reasonable suspicion that the employee: (a) is under the influence of drugs or alcohol; or (b) has engaged in the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on City property or operating a City vehicle, machinery, or equipment; or (c) has sustained a personal injury arising out of and in the course of employment, or caused another person to sustain a personal injury; or (d) has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

5. **Treatment Program Testing**
Any employee may be required to undergo drug and alcohol testing if the employee has been referred by the City for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under the City insurance, in which case the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

C. **Testing Laboratory**
A laboratory meeting all requirements of state law, including those set forth in Minn. Stat. Sec. 181.953, shall handle all drug and alcohol testing.

D. **Rights of Employees and Job Applicants**
1. Before undergoing drug or alcohol testing, the employee or job applicant shall complete a form provided by the City (1) acknowledging that the

employee has seen a copy of the City's drug and alcohol policy, and (2) indicating consent to undergo the drug and alcohol testing.

2. If an employee or applicant tests positive for drug use, the City will give written notice of the right to explain the positive test. The City may request that the employee or applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.
3. Within three working days after notice of a positive test result on a confirmatory test, the employee or applicant may submit information to the City to explain that result or may, request a confirmatory retest of the original sample at the employee's or the applicant's own expense. If the confirmatory retest does not confirm the original positive test result, the City will not take any adverse personnel action against the employee or applicant based on the original confirmatory test and will reimburse the employee for the expense of the retest.
4. An employee or job applicant has the right to request and receive from the City a copy of the test result report on any drug or alcohol test.

E. Notice of Test Results

Within three days after receipt of a test result report from the testing laboratory, the City shall provide to the employee or job applicant a written report indicating: (1) a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test, and (2) the right to request and receive a copy of the test result report.

In the case of a positive test result on a confirmatory test, the City shall also inform the employee or applicant in writing of the right to explain the result (identified in section Rights of Employees and Job Applicants, para. B of this policy); an employee's rights under section Discipline of this policy; or, in the case of a job applicant, that the job offer will be withdrawn.

F. Confirmatory Retests

An employee or job applicant may request a confirmatory retest of the original sample at the employee's or job applicant's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the employee or applicant shall notify the City in writing of the intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City shall notify the original testing laboratory that the employee or applicant has requested the laboratory to conduct the confirmatory retest or transfer the sample to another laboratory to conduct the confirmatory retest. The original testing laboratory shall ensure that the chain-of-custody procedures in state statute are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.

G. **Right to Refuse Testing and Consequences**

Employees and job applicants have the right to refuse to undergo drug and alcohol testing. However, failure to comply with the City's drug and alcohol policy, and refusal to take a drug and alcohol test upon request shall subject an employee to discipline, including discharge. If an applicant refuses to test, the job offer will immediately be withdrawn.

H. **Discipline.**

1. The City may not discharge, discipline, discriminate against or request or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. An employee who has a positive test result on a confirmatory test, when this is the first such result for the employee, will be subject to discipline but shall not be discharged unless (1) the employee has been given an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency, and (2) the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program as evidenced by withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program.
3. The City may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, if the City believes that it is reasonably necessary to protect the health or safety of the employee, coemployees, or the public. An employee who has been suspended without pay will be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
4. The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of medical history information revealed to the City pursuant to section Rights of Employee and Job Applicant of this policy unless the employee was under an affirmative duty to provide the information before, upon, or after hire.

I. **Data Privacy**

Test results and other information gathered under this policy will be treated as private data on individuals. Positive results will be disclosed to the employee, the employee's Department Head and the City Manager. Results will not be disclosed to others unless requested in writing by the employee or required by law.

3.4 Drug Free Workplace

In accordance with federal law, the City of Brooklyn Center has adopted the following policy on drugs in the workplace:

A. Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the city's intent and obligation to provide a drug-free, safe and secure work environment.

B. The unlawful manufacturing, distribution, possession, or use of a controlled substance on city property or while conducting city business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

C. The city recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate.

D. Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting city business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

3.5 Tobacco Use

Tobacco products (i.e. chewing tobacco, smoking, etc.) are prohibited in City buildings and vehicles.

3.6 Gifts and Gratuities

An employee may not solicit any gift or gratuity from any other employee or member of the general public. In no instance may a gift or gratuity be solicited or even hinted. In no instance may any gift or gratuity be accepted by a City employee, even if the gift or gratuity was unsolicited.

There are very limited exceptions to what is considered a gift or gratuity. The exceptions include:

A. A plaque or similar memento recognizing an individual's services in a field of specialty or to a charitable cause.

B. A trinket or memento costing $5 or less.

C. Informational materials of unexceptional value.

D. Food or beverage given at a reception, meal, or meeting away from your normal place of work by an organization before whom you are appearing to make a speech or answer questions as a part of a program. All other gifts of food or beverage are prohibited. Vendor contributions to a meeting of local officials for breakfasts, hospitality rooms, snacks, or refreshments are prohibited.

E. Usual or customary gift giving among employees during the holiday season, birthdays, retirements, weddings, baby showers, rolls, cookies, flowers, etc., provided by coworkers.

F. Gifts from a family member.

Good judgment is advised. When you are faced with a situation concerning the acceptance of an item, you should seek approval from your supervisor prior to its acceptance and, if not resolved with your supervisor, proceed up the departmental ladder. It is important that each of us maintain high standards of public service and remain within the letter and spirit of ethical behavior.

3.7 Membership on Advisory Commissions

City employees are, pursuant to City Council policy, ineligible for appointment or service on City Advisory Commissions. City employee participation with commissions is assigned by the City Manager.

3.8 Firearm Policy

The possession or carrying of a firearm by City of Brooklyn Center employees, other than sworn Police Officers, is prohibited while acting in the course and scope of employment for the City, including working in City buildings, on City property or at any off-site location, and while driving or riding in a City-owned vehicle in any location on behalf of the City. The term "possession" includes but is not limited to storing firearms in lockers, desks, file cabinets, etc., or in City-owned vehicles. For the purposes of this policy, employees are full- and part-time regular employees; temporary, seasonal and recurring employees; City Council members; City Advisory commission members; fire fighters; interns; volunteers; and independent contractors.

Any firearms brought onto City-owned parking areas by an employee must be placed out of sight in a personal vehicle. The vehicle must be locked and all reasonable precautions taken to prohibit unauthorized entry into the vehicle.

If a City employee drives his or her personal vehicle on any City business, including responding to on-call work from home after regular work hours, he or she must remove any firearm(s) from the vehicle prior to use of the vehicle for City business.

Non-sworn employees of the Brooklyn Center Police Department may handle firearms as necessary to fulfill their job requirements such as marking or transporting evidence and performing assigned tasks in the Police Department property room.

Violations of this policy are subject to disciplinary action in accordance with the City's disciplinary procedures policy.

SECTION 4 - RECRUITMENT/EMPLOYMENT

4.1 Position Opening Authorization

Department Heads will notify the Human Resources Director and make recommendations when a vacancy exists in a department or when there is a desire to fill a newly created position. The City Manager will review the request and recommendations and advise the department head on the proper course of action. The City Manager is the final authority in the filling of all positions.

4.2 Recruitment

The recruitment of applicants for employment with the City shall take place at the direction of the City Manager through Human Resources.

4.3 Notification of Appointment

The City Manager will notify the candidate selected for appointment in writing. The notification must include the employment starting date and salary.

The Department Head must provide the newly appointed employee with a current position description to indicate those duties and responsibilities for which the employee is accountable.

4.4 Probationary Period

The probationary period begins immediately upon the employee's starting date and continues for six (6) to twelve (12) working months unless otherwise specified in union contract. The Department Head must inform the City Manager of employee's successful completion of the probationary period.

All newly hired or rehired employees will serve a six (6) to twelve (12) month probationary period. At any time during the probationary period newly hired, promoted, or rehired employees may be terminated, demoted, or reassigned at the sole discretion of the employer. No cause for discharge is necessary.

Time served in temporary positions is not considered part of the probationary period.

4.5 Dismissal During the Probationary Period

A Department Head may recommend to the City Manager dismissal of a probationary employee at any time during probation for any reason. The employee must be notified of the termination date in writing from the City Manager.

4.6 Benefits During Probationary Period

Sick and vacation leave will accrue during the probationary period. Sick and vacation leave may be used as earned under the same conditions as applicable to non-probationary employees.

4.7 Employment of Relatives

More than one family member may not be employed within any department where one immediate family member or relative supervises or has the ability to hire, fire or promote another relative, or where there may be a conflict of interest or not in the best interest of the City as determined by the City Manager.

4.8 Discipline

City employees will be subject to disciplinary action for failing to fulfill their duties and responsibilities, including observance of work rules. It is the policy of the City to administer discipline without discrimination. Disciplinary action may include oral warning, oral reprimand, written reprimand, demotion, transfer, suspension or termination. Disciplinary action involving a suspension or dismissal is subject to state law on veteran's preference, existing collective bargaining agreements and state and federal laws. The dismissal of an employee is considered a separation not in good standing.

4.9 Grievances

Regular full and part-time employees claiming a grievance shall timely submit such grievance to the employee's supervisor who shall consider and examine the grievance and attempt to resolve it to the extent of their authority. If the grievance is not resolved at the supervisory level, it may be referred by the employee to their department head who shall consider and examine the grievance and attempt to resolve it. If the grievance is not resolved at the department head level, it may be referred by the employee to the Human Resources Director for disposition. The decision of the City Manager is final.

The City assures there will be no retaliation as a result of bringing a claim forth, cooperating in an investigation, or submitting a grievance.

4.10 EEO Policy Statement

This is to affirm the City of Brooklyn Center's policy of providing equal opportunity to all employees and applicants for employment in accordance with all applicable federal, state and local laws.

The City of Brooklyn Center will not discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national origin, ancestry, sex, sexual or affectional orientation, disability, age, marital status, status with regard to public assistance, familial status, veteran status, or membership on a local human rights commission, genetic information, gender identity or gender expression, and lawful participation in the Minnesota Medical Cannabis Patient Registry.

The City of Brooklyn Center will take all necessary steps to ensure that all employment practices are free of such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The City of Brooklyn Center will evaluate the performance of its management and supervisory personnel on the basis of their involvement in achieving these equal employment opportunity objectives as well as other established criteria. Any employee of this City who does not comply with the equal employment opportunity policies and procedures as set forth in this statement and plan may be subject to disciplinary action. No part of this program is to be construed as a contract between the City of Brooklyn Center and any individual employee. It does not describe in any way the terms and conditions of employment of City employees. Such terms and conditions are set forth in,

and the employment relationship is governed by, applicable collective bargaining agreements, employment agreements, or the personnel rules of the City.

The City of Brooklyn Center has appointed the Human Resources Director to manage the Equal Employment Opportunity policy.. The Human Resources Director's responsibilities will include monitoring all Equal Employment Opportunity activities and reporting the effectiveness of this policy as required by Federal, State and Local agencies. Brooklyn Center City Manager will receive and review reports on the progress of the program. If any employee or applicant for employment believes he/she has been discriminated against, please notify the Human Resources Director.

SECTION 5 – WORK SCHEDULES

5.1 Attendance

Employees shall work the normal hours (see Section 5.3) and the minimum number of hours a week as established for their positions in their respective departments. Each employee shall ensure that time worked and absences are correctly reported. Failure to correctly report time and/or falsification of documents may result in discipline up to and including termination. Unauthorized leave in excess of three work days is considered resignation not in good standing by the employee.

5.2 Flexible Daily Work Hours

Notwithstanding the normally established and observed daily work hours for employees, employees may, with the express written approval of their department head, establish and observe individual flexible daily hours. Individual flexible daily work hours shall not be permitted where such has an adverse impact on the employer's operation or on other employees. Flexible schedules, if approved, are on a case by case basis for a time-frame determined by the department head with no long-term guarantee. Approval of continued flexible schedule is at the discretion of the Department Head and/or City Manager.

5.3 Hours of Work, Meals and Breaks

A workweek consists of seven consecutive days (168 hours) beginning at 12:01 a.m. each Sunday. The regular workweek for full-time City employees is 40 hours; 80 hours constitutes a normal pay period. Normally, City offices will be open for business Monday through Friday from 8:00 a.m. to 4:30 p.m. Regular office hours may be changed by the City Manager. The hours of work and work schedules within each division and department will be set by the department head, with approval of the City Manager.

In most cases, full-time employees will have one uninterrupted meal period of no less than one-half hour per day. Meal periods are not paid, not included in the computation of overtime, nor included in the computation of a normal work shift or payroll period. Rest periods will be 15 minutes in each four-hour period for FLSA non-exempt employees. Meal periods may not be accumulated or taken at the end or beginning of the employee's shift on a regular basis.

Exempt employees are required to work the hours necessary to perform their job at their established rate of pay.

Essential employees, as defined by law, and other public safety employees, may be required to work a different schedule due to the specialized nature of their employment.

5.4 Inclement Weather

In the event of severe inclement weather, the City Manager may determine whether an emergency exists in which the public interest will be best served by closing the City office or offices. If a City office is closed due to a weather emergency, the following apply:

A. Employees are expected to listen to WCCO for announcements of closing of City facilities are not to report to work if their work site is not open. If notice of

closing has not been broadcast by 7:00 a.m. of the workday or if your department head or supervisor has not contacted you, employees may assume that the City facilities will be open.

B. If an employee determines that he or she cannot make it to work because of inclement weather, the employee must utilize earned vacation or comp time to compensate for time off.

SECTION 6 - EMPLOYEE COMPENSATION

6.1 Compensation Plan

The City Manager must develop and maintain a compensation plan so all positions substantially similar with respect to the type, difficulty, and responsibility of work are included in the same grade and that the same salary range may be applied to all positions in a grade.

The plan shall classify positions in accordance with federal and state laws for all positions. The City Manager will present the compensation plan to the City Council for its approval. The effective date of the compensation plan shall be the date stated in the plan approved by the City Council.

6.2 Reclassification/Job Analysis

In compliance with pay equity and our compensation plan, each position in the City shall be assigned a job value representing its relative value in the organization. Job values shall be a primary consideration when determining pay for our employees. All positions are grouped (banded) into classes based on the job evaluation system of point totals as well as job duties, skills and abilities, responsibility, required knowledge and experience and other pertinent factors. Internal and external factors are used to assign an appropriate pay range to each banded class of positions.

The method whereby point values are determined shall be consistently applied to all positions in the City. It is the responsibility of the Human Resources Director to develop and maintain a current job analysis program consistent with this policy.

A. When are positions reviewed?

All position descriptions will be reviewed at least every 10 years automatically to determine if the work of the incumbent is consistent with the job description. A salary market review will be conducted at least every ten years even if there have been no changes in job responsibilities. Job descriptions will be reviewed prior to filling a vacancy and when a new position is created. Job values will be reviewed as needed or requested by Department Heads not more frequently than every three years unless substantial changes in job duties have occurred. When a position is substantially changed, the following steps are required to initiate consideration for job analysis of a position:

B. How to request job analysis

The employee and their immediate supervisor should submit the current job description and a revised job description to the appropriate Department Head for review. Any addition(s), deletion(s) and/or substantial modification(s) must be clearly identified. If the Department Head agrees there is sufficient reason to warrant further consideration of a job analysis, they should forward the documentation to the City Manager with a memo detailing the reasons for the changes and requesting consideration for job analysis.

If the request is due exclusively to a change in market conditions the Department Head should review the salary data submitted in support of a job analysis review and submit this information to the City Manager

C. Review process

The City Manager will submit the documentation to the Human Resources Director for review. After HR review a decision to proceed or not to proceed with the analysis will be made. If the decision is not to proceed a written explanation will be provided to the Department Head and the process will end.

The primary factors for job analysis review consideration will be the following:

1. Are there substantial change in the level of responsibility, and or significant changes in the minimum job qualifications?
2. Is there a reason to believe that market conditions have changed substantially since the pay level was established?

Once review approval is granted, the Human Resources Director shall send the job description for analysis to the City's consultant. Analysis may consist, but is not limited to review of the following information: job description, organizational structure, benchmark jobs, comparison with internal positions and the market.

If a market analysis is performed the position will be compared with our comparison cities; Crystal, Fridley, Golden Valley, Maplewood, New Hope, Richfield, Roseville, Shoreview, and White Bear Lake. In the rare case where the fore stated comparison cities do not offer a reasonable sample of similar job classifications, the City Manager may authorize the substitution of other metro cities for comparison.

D. Recommendation

The Human Resources Director shall discuss the findings of the job analysis with the Department Head and submit a recommendation to the City Manager. Based on the findings the position may stay at the same level, be assigned to a higher level or a lower level based on the results of the job analysis.

An adjustment will be based upon whether the job analysis points are significantly lower, higher, or are not properly classified with similar points.

E. Decision

The City Manager may approve, deny, or seek clarification on the recommendation.

F. Salary change

In general, the following philosophy will be used when there are changes in salary as it relates to a change in job value, based on City Manager approval. All salary changes will be made in conformance with the city compensation plan.

Job Value increase: Salary may be increased within the new pay range.
Job Value decrease: Salary may be frozen or decreased to fit within the pay range.

No change in job value: No change in salary.

Changes in salary shall be made within a reasonable timeframe (not greater than 120 days) of completion of the review and approval by the City Manager.

Market based adjustments will be considered when the current position range is not within 5% of the average (arithmetic mean) of the comparable position in the comparison cities.

G. Delivery and Implementation

The Department Head shall inform the employee of the results of the job analysis process. The Department Head shall be responsible for completing the appropriate paperwork and Human Resources will be responsible for implementing the necessary changes to the pay plan, etc. based on the City Manager's decision.

H. Appeals

An employee who disagrees with the result of the job analysis may appeal, in writing, to the Human Resources Director within 30 calendar days of receipt of the decision. With the appeal, the employee must submit information stating the reasons for their disagreement and include a statement and documentation/data supporting a recommendation for resolution. The City Manager will review the information received in the appeal and inform the employee of the final decision on job analysis within 30 calendar days of receipt of the appeal information. The City Manager may take into consideration the information submitted, and/or gather additional information as needed. The decision of the City Manager is final. The job analysis process and outcome is not subject to the grievance procedure.

6.3 Overtime/Compensatory Time - Fair Labor Standards Act

Pursuant to federal and state wage and hour laws, nonexempt employees who are authorized to work overtime and who work in excess of 40 hours in a workweek will be compensated at a rate of one and one-half times their base rate of pay for hours worked in excess of 40.

Paid holidays, paid leave time (sick and vacation) and comp time used are counted as time worked for the purpose of computing overtime hours. Unpaid leave is not counted towards hours worked.

6.4 Compensatory Time - Non-Exempt Employees

Non-exempt employees have the option of selecting compensatory time at the rate of one and one half times their regular rate of pay in lieu of overtime, to a maximum of 40 hours of comp time accrual.

6.5 General Rules - Overtime/Comp Time

All overtime and comp time to be worked **must** be pre-approved by the Department Head prior to working overtime or comp time. Failure to obtain prior approval of overtime and comp time may result in discipline.

6.6 Temporary Fill-In at a Higher Classification

From time to time employees may be asked to fill in temporarily at work in a higher classification. The assignment will be made by the Department Head with the approval of the City Manager.

If a temporary assignment extends beyond 20 working days, additional compensation at the higher classification may be provided. The duration of a temporary assignment may not exceed six months, unless authorized by the City Manager.

SECTION 7 - GENERAL BENEFITS

7.1 Cafeteria Benefits Plan Eligibility

Regular full-time employees who work 40 hours per week are eligible for benefits. The City will provide a contribution for regular full-time employees as approved by City Council.

7.2 Health Insurance

Regular full-time employees may purchase health benefits as made available through the Employer's Cafeteria Benefit Plan. Plans are subject to policy documents.

7.3 Dental Benefits

Regular full-time employees may purchase dental benefits as made available through the Employer's Cafeteria Benefit Plan. Plans are subject to policy documents.

7.4 Life Insurance

Life insurance may be provided for full-time regular employees through the Employer's Cafeteria Benefit Plan. Employees provided this benefit may purchase additional term life insurance to supplement the insurance coverage provided by the City as well as supplemental and dependent life insurance. Plans are subject to policy documents.

7.5 Deferred Compensation Program

Regular full-time employees are provided the opportunity to participate in a deferred compensation plan. This voluntary plan allows employees to place a portion of their earnings into pretax deferred investment program. Plans are subject to regulations.

7.6 Flexible Benefits Plan

Regular full-time employees are offered an optional plan in which a portion of the employee's salary can be set aside pre-tax to cover estimated health care and day care costs. The employee must expend all the money set aside in the flexible benefit plan within the calendar year or lose it. Proof of medical and day care expenses must be submitted. Please see plan document for criteria regarding the flexible benefit plan. Plans are subject to IRS regulations.

7.7 P.E.R.A.

Public Employees Retirement Account participation will be maintained for all eligible employees pursuant to state law. The City and eligible employees contribute to PERA each pay period as determined by state law. For details see the PERA manual in the Human Resources Division. Plans are subject to PERA regulations.

7.8 Direct Deposit

The City requires direct deposit for all employees.

SECTION 8 - LEAVE BENEFITS – Regular Full-time Employees

8.1 Official City Holidays

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25
Two Personal Floating Holidays	(See description below)

When a holiday falls on a Saturday the previous Friday is designated as the holiday; when on a Sunday, the following Monday is designated as the holiday for employees whose normal work schedule is Monday through Friday.

Non-union full-time employees who work a holiday will be paid time and one-half employee's regular pay rate for all hours worked in addition to straight compensatory time off for the holiday.

Employees may observe a religious holiday on days which do not fall on Sunday or a legal holiday. Observance of such a religious holiday must be taken off without pay except where the employee has accumulated vacation or comp time and in that case such religious holidays may be charged against such leave accumulations at the option of the employee.

Employees who are in collective bargaining must check their agreements and follow contract language for holiday schedules.

In order to be paid for holiday leave, the benefit earning employee must be working or using vacation, sick or other approved paid leave on both the day before and after the holiday.

8.2 Personal Floating Holiday - Regular Full-time Employees

Employees receive two personal floating holidays per year to be used as follows:

A. Regular full-time employees, employed as of January 1 of each year, shall have one eight (8) hour personal floating holiday to be used within the calendar year. Such floating holiday shall be taken at the employee's discretion upon approval of the employee's supervisor. The floating holiday must be taken as a whole day off and may not be used in partial days. The personal holiday must be used within the calendar year or it will be lost.

B. Regular full-time employees, employed as of July 1 of each year, shall have one eight (8) hour personal floating holiday to be used within the period July 1 through December 31 of that year. Such floating holiday must be taken as a

whole day off and may not be used in partial days. The personal holiday must be used within the period July 1 through December 31 of the year in which it is received or it will be lost.

The request for use of a personal holiday follows the same procedure as a request for vacation.

8.3 Vacation Leave - Regular Full-time Employees

A. Regular full-time employees shall earn vacation leave at the rate of 6.67 hours for each calendar month of full-time service or major fraction thereof. Regular employees with five consecutive years of service through 10 consecutive years of service shall earn vacation leave at the rate of 120 hours per year. Regular employees with more than ten consecutive years of service shall earn vacation leave according to the following schedule:

During 11th year of service 128 hours per year.
During 12th year of service 136 hours per year.
During 13th year of service 144 hours per year.
During 14th year of service 152 hours per year.
During 15th year of service 160 hours per year.

In the best interest of the City, vacation leave in excess of the established amount specified in this section may be granted by the City Manager.

Employees using earned vacation or sick leave shall be considered to be working for the purpose of accumulating additional vacation leave.

B. **Accrual**
Vacation begins accumulating in accordance with date of hire.

C. **Usage**
Vacation leave may be used as earned except that the department head shall approve the time at which the vacation leave may be taken.

D. **Vacation Accumulation**
The total number of vacation hours carrying over from year to year may not exceed 230 hours, except where approved in writing by the City Manager. Vacation leave up to 230 hours will be paid out to the employee who separates from employment in good standing.

8.4 Sick Leave - Regular Full-Time Employees

A. Sick leave with pay shall be granted to probationary and regular full-time employees for each calendar month of full-time service or major fraction thereof. Sick leave shall accrue at the rate of eight hours per month until 960 hours have been accumulated. After 960 hours have been accumulated, sick leave shall accrue at the rate of four (4) hours per month, and simultaneously vacation leave, in addition to regular vacation leave accrual, shall accrue at the rate of two (2) hours per month. Employees using earned sick leave shall be considered to be

working for the purposes of accumulating additional sick leave.

The City Manager may advance a maximum of 96 hours of sick leave to newly hired employees who have a minimum of five years of job experience which is directly related to the position for which they are hired. No sick leave will accrue during the first 12 months of employment.

Sick leave may be taken as it is earned. Sick leave may be used when an employee is unable to perform work duties due to illness, injury, disability (including pregnancy), participation in an employee assistance program, or by necessity for medical or dental care appointments. Sick leave may also be used by the employee to care for the employee's spouse, and the following family members: dependents, minor and adult children, including stepchildren, parents, stepparents, parents-in-law, siblings, grandparents, grandchildren, son-in-law, or daughter-in-law of the employee or employee's spouse. The City Manager may require a medical certificate as may be deemed necessary before approving the utilization of sick leave. Sick leave may also be used for absences due to the need for safety leave (providing or receiving assistance because of sexual assault, domestic abuse, or stalking as defined by state law) relating to the employee or any of the family members identified above.

B. **Sick Leave Request**

Employees must notify their immediate supervisor on the first day of sick leave and each day of sick leave request before the start of his or her shift unless otherwise required by the supervisor. When possible, sick leave must be requested in advance.

C. **Sick Leave Severance**

At the time of resignation, retirement, or death, the City shall pay to employees who have been employed for at leave five consecutive years one-third of their accumulated sick leave. If discharged for cause, or lack of appropriate notice, severance pay shall not be allowed.

8.5 Sick Leave Donation Program

The City of Brooklyn Center recognizes that a catastrophic or prolonged illness of an employee or their immediate family member may deplete the employee's available paid leave (vacation, sick, and other forms of compensated leave time). This policy is meant to provide staff with the option of assisting employees in such circumstances through voluntary donations of vacation / sick leave accruals. Application of this policy will be approved by the City Manager on a case by case basis.

A. Eligibility:

1. All regular full-time employees will be considered eligible to participate in this program.
2. An employee will be eligible to receive donated leave only after all of that employee's accrued leave time has been exhausted.

3. Donation of leave will not be allowed once it is known or has been determined that the employee will not return to work.

B. Process:

To receive donated leave time an employee will submit the following to Human Resources:

1. Request for consideration of leave time donation form
2. Certification from the attending physician or other applicable health care provider
3. Any other relevant information necessary in determining eligibility

The City Manager will review the request and shall have the right to deny use of this policy or to limit its use based solely upon the Manager's discretion.

To donate leave time participating employees shall complete a donation of leave time form.

C. General Information Regarding Leave Donation:

1. The maximum leave time to be received is 160 hours per 12-month period per qualifying situation. This period begins the date that a request for leave time has been made.
2. Donated leave hours will be converted to sick leave and placed in the recipient's sick leave bank. The recipient will be allowed to use these hours in accordance with City Policy.
3. Donations will be made in two-hour increments consisting of one hour of vacation leave and one hour of sick leave.
4. Donors must have a minimum of 160 hours of sick leave in their own bank after donation to participate.
5. Donations will be made anonymously.
6. Donated time may not be reclaimed and the recipient is under no obligation to repay the donation.
7. The City Manager retains the right to apply this policy in any manner deemed to be in the best interest of the City. This includes amendment, alteration, and elimination of the policy without notice or negotiation.

8.6 Reasonable Unpaid Work Time for Nursing Mothers

Nursing mothers will be provided reasonable unpaid break time for nursing mothers to express milk for nursing her child for one year after the child's birth. The city will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express in private.

8.7 Official Record - Sick, Vacation, and Compensatory

The City's computerized payroll system is the official record for sick, vacation and compensatory balances.

8.8 Workers' Compensation

An employee, who is temporarily disabled from work by an injury or illness sustained in the performance of the employee's work with the City, may be eligible for Workers' Compensation payment and additional salary through the use of accrued sick leave. The total of the Workers' Compensation check and the accrued sick leave compensation may not exceed the employee's normal gross pay. For more information on Workers' Compensation contact your supervisor or Human Resources.

8.9 Funeral Leave

Earned sick leave may be taken in the event of a death in an employee's immediate family. In this section, the term "immediate family" includes employee's spouse, and the following family members: dependents, minor and adult children, including stepchildren, parents, stepparents, parents-in-law, siblings, grandparents, grandchildren, son-in-law, or daughter-in-law of the employee or employee's spouse. The length of leave will be determined by the Department Head and the City Manager.

8.10 Military Leave

Employees called to military service will be granted leave of absence without loss of status or pay not to exceed 15 working days per year when ordered to training or active service. The City must receive a copy of the orders from the proper authority directing the employee to report to duty. Military leaves of absence with or without pay shall be granted as provided in Minnesota and Federal Regulations.

8.11 Jury Duty

Any regular or probationary full-time or part-time employee who is required to serve as a juror or who is under subpoena as a witness in court on City matters, will be granted leave with pay while serving in such capacity. The employee must provide the appropriate paperwork to the City prior to the leave being granted. The employee must give any fees received for such service with the exception of mileage or parking, to the City. When employees are excused from jury duty or serving as a witness during their regular working hours, they are expected to return to work if practicable. Temporary employees will be given leave without pay and may retain all fees received.

8.12 Bone Marrow and Organ Donation Leave

Employees working an average of 20 or more hours per week, who seek to undergo a medical procedure to donate bone marrow, an organ, or partial organ to another person, will be granted up to 40 hours of paid leave. Employees must provide a medical verification by a physician as to the purpose and length of each leave requested.

8.13 Election Days

Employees eligible to vote in a regularly scheduled state primary or general election may be absent from work for the purpose of voting during the morning of the day of that election, without penalty or deduction from salary or wages because of the absence. A request for time off to vote must be made prior to Election Day and the supervisor may specify the time when an employee may be absent for voting purposes

8.14 School Conference and Activities Leave

In compliance with MN Statutes 181.9412, employees working an average of 20 or more hours per week may take unpaid leave up to a total of 16 hours during any 12-month period to attend school conferences or school-related activities related to the employee's child, provided the conferences or school-related activities cannot be scheduled during non-work hours. Parental leave must be requested in writing in advance and processed through the Department Head or Supervisor. An employee may use accrued vacation or other paid leave for leave under this section.

8.15 Parenting Leave

Pursuant to state law, certain employees shall be granted an unpaid parenting leave for a period not to exceed twelve (12) weeks upon the birth or adoption of a child or for prenatal care of incapacity due to pregnancy, childbirth, or related health conditions. Eligible employees are those who have: 1) been employed by the City for at least 12 months preceding the request for leave; and 2) worked an average of 20 hours or more per week.

Eligible employees anticipating parenting leave must submit a written request to their supervisor, who will forward the request to human resources, before the anticipated birth or adoption of the child whenever possible. A parenting leave must not begin more than twelve (12) months after the birth or adoption of the child, unless the child remains in the hospital longer than the mother, then the leave must not begin more than twelve (12) months after the child leaves the hospital.

No vacation or sick leave, or other benefits will accrue during the leave period. Employees shall be eligible for group health insurance benefits during the leave, but will be responsible for any costs of insurance premiums. Employees are entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave.

8.16 Employee Volunteer Leave

Employees may be paid up to 20 hours annually to participate in local community volunteer activities. This leave must be pre-approved by the employee's supervisor prior to volunteering for the event. This program is to encourage our employees to become more engaged with the community of the City of Brooklyn Center.

8.17 Unpaid Leave of Absence

Employees must submit a written request for an unpaid leave of absence to the department head for approval with the final determination to be at the discretion of the City Manager. A leave of absence without compensation may be granted by the City Manager for up to six calendar months to an employee for any reasonable purpose and extended by the City Manager for any reasonable period.

Sick and vacation leave will not accrue during an unpaid leave of absence. Accrued amounts of both sick leave and vacation leave will remain on the record at the inception of the leave of absence and shall continue upon the return of the employee. If the leave extends for more than 30 days, health and dental coverage and life insurance premiums must be paid in full by the employee during such leave or the coverage will lapse.

For unpaid leaves of absence of 30 days or less, the City will continue its normal premium contribution or as policy allows.

8.18 Family Medical Leave Act – FMLA

Family Leave is governed by the Family Medical Leave Act of 1993 as amended and Federal Regulations. FMLA provides a 12-week unpaid job-protected leave for certain employees in certain circumstances. The following is a summary of the Family Medical Leave Act and how it applies to employees of the City of Brooklyn Center. A copy of the Federal Regulations is available for review from the human resources division.

A. Eligible Employees

Eligible employees are those who have:

1. Been employed by the City of Brooklyn Center for at least 12 months; and
2. Worked a minimum of 1,250 hours within the previous 12-month period immediately preceding the request for leave.

B. Circumstances Covered by Family Leave

FMLA leave will be granted to an eligible employee for any of the following reasons:

1. Birth of a child and to care for the newborn child;
2. Place of a child with the employee for adoption or foster care;
3. Employee is needed to care for a family member (child, spouse, or parent) with a "serious health condition;"
4. Employee's own "serious health condition" that makes the employee unable to perform the functions of his or her job; or
5. Any "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending order to active duty) in support of a contingency operation.
   a. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
6. Covered Service member (Military Caregiver) Leave

   In addition, the FMLA allows an eligible employee who is a spouse, son, daughter, parent or next of kin of a covered service member to take a total of 26 work weeks in a single 12-month period to care for a covered service member who suffers a serious injury or illness while on active duty.
   a. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties. The service member must be undergoing medical treatment, recuperation or therapy, in outpatient status, or on the temporary disability retired list as a result of the line of duty serious injury or illness.

C. Serious Health Condition

Federal law defines a serious health condition as an illness, injury, impairment, or physical or mental condition that involves either:

1. Inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider, which includes:
   a. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
      - treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
      - one treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of continuing treatment (e.g., prescription medication, physical therapy); or
   b. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence;
   c. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
   d. A period of incapacity that is permanent or long term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
   e. Any absence to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days if not treated.

D. Length of Leave

The length of FMLA leave is not to exceed 12 weeks in any 12-month period. The entitlement to FMLA leave for the birth or placement of a child expires 12 months after the birth or placement of the child.

E. Leave Year

The leave year will begin the first day the employee is absent from work on FMLA leave.

F. Notice

The employee must give the City at least 30 days advance notice if the leave is foreseeable. If leave must be taken in less than 30 days, the employee should give as much notice as is practicable. An employee must submit the leave request in

writing to their department head. The leave must be approved by the employee's department head and the City Manager and is subject to the following provisions and the operating needs of the department. If an employee fails to apply for FMLA the City may declare coverage under the provisions of the law on their behalf.

G. Medical Certification

The employee must provide a medical certification if the leave is for the serious health condition of a child, spouse, parent or the employee. The employee must provide a medical certification completed by the attending physician or practitioner indicating the need for the leave. Forms are available from Human Resources. The City may require a second or third medical opinion at the City's expense.

H. Use of Annual Leave and Sick Leave

The employee may choose to use accrued annual leave while on any FMLA leave, but will not be required to do so by the City.

Those employees with accrued sick leave banks may choose to substitute sick leave in place of annual leave, or they may choose to supplement their leave with sick-leave hours after their annual leave has been depleted.

The use of annual leave and/or sick leave occurs simultaneously with FMLA leave and does not extend the length of FMLA leave.

I. Both Spouses Employed by City

Spouses who are eligible for FMLA leave and are both employed by the City may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's child or to care for the child after the birth, or for placement of a child with the employee for adoption or foster care or to care for the child after placement. If the leave is for other qualifying reasons, each spouse may take up to 12 weeks of FMLA leave per leave year. The leaves may run simultaneously.

J. Continuation of Insurance and Payment of Premiums

An employee on FMLA leave may choose to continue existing health-care benefits (health and dental) and life insurance if they so desire. These benefits will be maintained under the same conditions and at the same level of City contribution as before the employee goes on leave. If there are changes to the City's contribution levels and/or premium rates while the employee is on leave, those changes will take place as if the employee were still on the job. The employee will be required to continue payment of the employee portion of the health-care and/or other insurance coverage they choose to continue.

The employee may choose not to retain health-care or other insurance coverage during FMLA leave. When the employee returns from leave, they will be reinstated on the same terms as prior to taking leave, without any qualifying

period, physical examination, exclusion of pre-existing conditions or other requirement.

K. Premium Reimbursement

The employee will be required to reimburse the City for any premiums paid during the leave if the employee does not return to work, unless the employee cannot return to work due to the continuation of a serious health condition of the child, spouse, parent or employee, or due to other circumstances beyond the control of the employee.

L. Effect on Benefit Accrual

The employee will not accrue benefits such as annual leave while on unpaid FMLA leave. Step increases will be extended by the length of the leave.

M. Key Employees

Employees who are not "key" employees will be reinstated to their same position or an equivalent position upon return from leave with equivalent pay, benefits and working conditions. A key employee is defined as a salaried employee who is in the highest ten percent of all employees within 75 miles of the work site. Key employees may be denied reinstatement to the same or an equivalent position after a leave if denial is necessary to prevent substantial economic injury to the City's operations.

8.19 Leave Extension Request

Failure on the part of the employee to request and receive authorization for an extension of leave within three working days of expiration of initial leave is considered as a resignation from employment.

8.20 Reinstatement from Leave of Absence

A. An employee returning from leave must notify the employee's supervisor at least two weeks prior to the anticipated return date.

B. Upon return from a leave of absence, the employee will be assigned to the previously held position or a position in a comparable class except as herein provided.

C. An employee may be returned to employment at any time prior to the expiration of the leave by the action of the City Manager.

D. Employees returning from leave will retain all previously accrued benefits of employment and seniority.

SECTION 9 - LIGHT DUTY

9.1 Purpose

The purpose of this policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. Light duty is evaluated by the City Manager on a case-by-case basis. This policy does not guarantee assignment to light duty.

9.2 Policy

The City of Brooklyn Center's Light Duty Program is for short-term, temporary disability-type purposes; assignment of light duty is at the discretion of the City Manager. The City Manager reserves the sole right to determine when and if light duty work will be assigned.

9.3 Procedure: Applying for Light Duty Work

When an employee is unable to perform the essential requirements of the employee's job due to a temporary disability, the employee will notify the City Manager or Department Head in writing as to the nature and extent of the disability and the reason why the employee is unable to perform the essential functions, duties, and requirements of the position. This notice **must** be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability including the expected time frame regarding return to work full time with no restrictions, meeting all essential requirements and functions of the City's position description along with a written request for light duty.

The City may require an independent evaluation conducted by a physician selected by the City to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

It is at the discretion of the City Manager whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis, light duty is recommended to last no longer than six months.

The circumstances of each disabled employee performing light duty work will be reviewed regularly.

9.4 Reasonable Accommodations to an Employee for Health Conditions Relating to Pregnancy

The city will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth:

A. More frequent restroom, food, and water breaks;
B. Seating;
C. Limits on lifting over 20 pounds; and/or
D. Temporary transfer to a less strenuous or hazardous position, should one be available.

Unless such accommodations impose an undue hardship on the city, the city will engage in an interactive process with respect to an employee's request for a reasonable accommodation.

SECTION 10 - SEPARATION FROM EMPLOYMENT

10.1 Resignation/Termination

A. To leave employment in good standing, employees must submit written resignation to the employer. Such written notices must indicate the effective date of resignation and must be submitted at least fourteen (14) calendar days before such effective date. Failure to comply with this procedure may be considered cause for denying future employment by the municipality and denial of benefits.

B. Unauthorized Absences. Unauthorized absence from work for a period of three working days may be considered a resignation without benefits.

10.2 Dismissal

Because City employees are at-will employees, the City may discharge an employee at any time for any reason, with or without notice.

10.3 Reduction in Force/Lay-Offs

The City Manager may lay off any employee whenever such action is made necessary by reason of shortage of work or funds, the abolition of a position, or because of changes in the organization. A full-time benefit earning employee who is laid off from employment shall be provided with a minimum of 14 days advance notice of such layoff or as provided for in any applicable labor agreement.

A laid off full-time benefit earning employee shall have the rights to recall to the same position from which the employee was laid off for up to six months (180 calendar days) following the layoff.

Part-time, seasonal, temporary, and non-benefit earning employees may be separated from employment at any time, without advance notice and shall have no recall rights.

10.4 Continuation of Benefits upon Separation – COBRA

Federal law provides that employees who are actively enrolled in a health plan and who have separated from city service may continue on the city's group health, dental coverage plan and life insurance for up to 18 months. Pursuant to applicable state or federal law requirements, changes in family status, eligibility for Medicare or death of a spouse may warrant continuing coverage for up to 36 months. Continuing coverage premiums must be paid in full by the separated employee, their spouse or dependents, or coverage will lapse. See human resources for plan details.

10.5 Benefits for City Retirees

On August 13, 1990, Brooklyn Center City Council adopted Resolution 90-166 establishing Retirement Health Insurance Program. Benefits for City Retirees have continued to be approved by Council through the date of adoption of this document.

It is in the best interest of the City of Brooklyn Center that retiring employees have available to them at their option a quality health insurance program. Therefore the City established a Retirement Health Insurance Program as follows:

A. Employees Eligible for PERA Retirement

All employees eligible for a PERA pension separating employment from the City shall have the option of retaining membership in the City of Brooklyn Center's employee health and dental insurance plans as specified in MN Statute 471.61, subd.2b. Retirees may retain coverage of elected benefits upon prompt monthly payment of the full cost of all applicable premiums. Retirees may retain coverage until such time as the retiree is eligible for Medicare coverage or at age 65, whichever is sooner.

B. Employees Retiring with Full Unreduced PERA Pension with Continuous Full-time Uninterrupted Service with the City of Brooklyn Center and who were hired on or before January 1, 1992

Employees, on the day of his/her retirement, who meet eligibility requirements for a full-retirement annuity under PERA or PERA Police without reduction of benefits because of age, disability, or any other reason for reduction shall have the option of retaining membership in the City of Brooklyn Center's employee health insurance plan for which the City will pay the single-person premium until such time as the retiree is eligible for Medicare coverage or at age 65, whichever is sooner. If the retiree desires to continue coverage other than single coverage and is enrolled in that coverage at the time of retirement and if such coverage is available under the City's policies, the additional cost for the coverage shall be paid promptly on a monthly basis by the retiree to the City of Brooklyn Center. The City will follow continuation benefits as specified in MN Statute 471.61, subd.2b.

In addition, an employee qualifying for this program must have continuous full-time uninterrupted service with the City of Brooklyn Center and be hired on or before January 1, 1992. Employees participate in this program on a voluntary basis.

SECTION 11 - TUITION REFUND PROGRAM

11.1 Tuition Refund

Regular full-time employees who have passed their initial probation period may be eligible for reimbursement of tuition and required course fees for courses taken for credit through accredited educational institutions.

Tuition reimbursement may be approved for courses with the following criteria:

A. a college level course available for credit; and
B. course is taken on personal time; and
C. course is "work related"; and
D. grade of "C" or better or "satisfactory" is received upon completion; and
E. the training request receives pre-approval and final approval by the City Manager.

Full-time employees who have successfully completed probation may be eligible for a 60% reimbursement of books, tuition and required fees upon completion. Employees who have at least five years of consecutive full-time service are eligible for 75% reimbursement. All regular full time employees who are interested in participating in this program must first submit course work to City Manager for pre-approval. Pre-approval forms may be obtained from Human Resources. Employees must obtain pre-approval to ensure they obtain reimbursement through participation in this program. Maximum reimbursement is $1,500 per employee per calendar year; or may be lower due to budget constraints.

SECTION 12 - RECORDS AND REPORTS

12.1 Personnel File

The official personnel file for each regular employee is maintained in the Administration office. Data regarding benefits is maintained in a separate file in the Administration office.

The employee's personnel file contents are proprietary to the City and the employee may not exercise his/her right to review their file more often than once every six months unless new information has been added to the file.

12.2 Job Descriptions

The City Manager, with assistance of human resources and department heads shall establish and maintain a job description for each position. Job descriptions will be reviewed and revised as needed. Human Resources will maintain the official copy of each current job description for regular positions.

12.3 Performance Reports

Department Heads and Supervisors shall conduct performance evaluations with regular employees on an annual basis. Evaluations may be conducted more frequently if an employee's performance is unsatisfactory, there are changes to the position or as determined by the supervisor. Performance evaluations should be discussed with the employee before being submitted to the City Manager. Performance evaluations shall be retained in the employee's personnel file.

12.4 Employee Identification Card Policy

All full-time and part-time regular employees out in the field and/or conducting inspections are required to have a City employee identification card. Other employees will be selected as deemed necessary by the department head.

Upon termination with the City of Brooklyn Center, employee identification cards must be returned to the appropriate department head/supervisor.

SECTION 13 - EXPENSE REIMBURSEMENT POLICY

13.1 Clothing/Foot Protection

A. Eligible Employees

All full and part time regular and seasonal employees in the work area of government buildings divisions and employees engaged in building inspection and engineering inspection/survey; golf course maintenance personnel as well as all others so designated (excluding IOUE Local #49 employees.)

B. Procedure

Full-time employees will be reimbursed an allowance of $100 per calendar year for purchase of work clothing, protective clothing, safety jackets or vests, steel toed boots/shoes; uniform or rental of such work clothes for use on the job for the City of Brooklyn Center. The employer will reimburse part-time and/or seasonal employees an allowance of $50 per calendar year for the above listed purchases.

The City reserves its right to ensure allowance is used for appropriate work attire. Receipts and description of purchase/rental required prior to reimbursement.

Employees who choose to be reimbursed by the City for the optional clothing and/or footwear described above must submit to his/her supervisor a clothing/foot protection reimbursement form and proof of purchase. The supervisor will then submit this documentation to Finance for reimbursement.

13.2 Mileage Reimbursement

Personal automobile use for authorized trips, meetings, work, etc., will be reimbursed at the rate consistent with IRS regulations. Mileage reimbursement requests must be in writing and approved by the Department Head. Use of personal vehicle for work purposes must be pre-approved by the Department Head.

13.3 Personnel Expense Reimbursement

Moving Expense: The City Manager may approve expenses for actual cost of moving household goods and up to two trips with spouse to look for housing as related to recruitment of Department Head level positions.

Travel: Reimbursements of travel expenses are intended to refund actual costs incurred by City employees and officials while traveling as authorized representatives of the City of Brooklyn Center. In order to qualify for travel reimbursement, trips to a destination exceeding 100 miles from Brooklyn Center must have the prior approval of the City Manager. Requests for travel advances intended to defray costs incurred while on a trip and prior to submission of an expense report shall be submitted to the City Manager for approval at least seven days in advance of the trip. Travel advances shall be limited to 90 percent of the estimated expenses for lodging, meals, and other related travel expenses. Costs of transportation and registration shall be advanced in full.

A. A properly verified, itemized expense claim shall be submitted to the City Manager for approval within ten days following the date of return from an authorized trip. Expense claims shall be accompanied by receipts for:
   1. Transportation costs to and from the destination via coach, tourist, or economy class transportation.
   2. Lodging costs not to exceed a reasonable single-occupancy rate as determined by the City Manager.
   3. Conference or meeting registration fees.
   4. Any unusual items for which advance approval has been obtained from the City Manager.

B. The mode of transportation must be approved by the City Manager prior to any authorized trip. Personal automobile use for authorized trips will be reimbursed at a rate consistent with IRS regulations, or an amount equal to air travel tourist class, whichever is lesser.

C. Reimbursement for meals while on authorized travel will be for actual expenditures with a maximum of 85% of the federal per diem rate per day.

D. Reimbursement for mileage is intended to include provision for insurance with a reasonable deductible, which for purposes of this policy is assumed to be $500.00. Employees will be reimbursed for verifiable out-of-pocket expenses incurred for claims or damages relating to the use by the employees of their private vehicles on City business in an amount not to exceed $500.00 per occurrence. Reimbursement shall be made only for claims for damages arising from occurrences in which the employee is driving his or her car away from City Hall, or the employee's workstation, on City business under circumstances that would qualify for reimbursement for mileage. This paragraph does not limit the obligation of the City to indemnify employees for claims covered by Minnesota Statutes, Section 466.07 or other law.

13.4 Accrual of Benefits for Airline for City Business

City employees/officials using City funds, traveling on City business and using commercial airlines cannot claim frequent flyer mileage or any other similar type credit as their own. Employees/officials must certify that they have not claimed frequent flyer mileage or similar such credits for personal use when they apply for travel reimbursement for City trips.

Employees/officials are encouraged to obtain a separate frequent flyer card exclusively for City travel. Employees/officials must use frequent flyer tickets earned while traveling on City business for City travel. Employees/officials cannot use frequent flyer miles as reimbursement for City trips.

13.5 City Vehicles

Certain employees of the City are required to drive a City vehicle to their home and keep it there while off duty. They must do so to be able to respond to emergency situations. These emergency situations include fire and police protection, civil defense, and restoring

City services such as water, sewer, and streets. It may also be necessary to keep a City vehicle at home for security purposes or other City business purposes. These vehicles must be used for City business use only and cannot be used for the personal use of any employee. Such use is assigned and approved by the City Manager.

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SECTION 1 - PURPOSE

1.1 Purpose

The purpose of these policies is to provide a uniform, comprehensive and efficient system of personnel administration ~~and policies~~ for the City of Brooklyn Center.

1.2 Adoption & Amendment

These policies and regulations were prepared and recommended by the City Manager in accordance with the administrative code~~personnel ordinance~~. The City of Brooklyn Center reserves the right to unilaterally modify the personnel rules, policy and administrative code~~ordinance~~.

1.3 Administration

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Personnel policies are administered by the City Manager who is directly accountable to the City Council. The City Manager may establish administrative polices and rules as may be appropriate to administer the employment practices of the City. The City Manager is also responsible for administration of personnel policies adopted by Council. The Manager is directed to develop and provide the necessary forms, procedures, and instruction for the implementation of policies. The City Manager has the authority to interpret, develop, change, add and delete policies. The City Manager shall make every appointment to a position of City employment, except when state law, City Charter or ordinance otherwise provides. Each appointment shall be based on merit and qualifications for the position as determined by the City Manager. Except as otherwise provided by state law, City Charter, or ordinance, the City Manager or designee shall make all decisions regarding discipline of City employees, including suspension and termination.

1.43 Savings Clause

If a personnel regulation is held invalid by judicial or legislative action, the remainder of these rules will not be affected.

1.45 Department Rules

In accordance with these policies~~Rules~~, each d~~D~~epartment h~~H~~ead may establish written departmental rules of procedure that do not conflict with these regulations. ~~,~~ ~~t~~To cover unique circumstances. Departmental rules and/or policy must be approved in writing by the City Manager prior to implementation.

1.56 Application - Positions

Unless otherwise indicated herein, ~~A~~all employees (regular full and part-time), offices and positions with the City ~~in the municipal employ, now existing or hereafter created, will be~~ are subject to the provisions of these policies ~~regulations~~ except the following:

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A~~a~~. Elected officials

B~~b~~. Members of appointed boards and commissions

C~~c~~. ~~Volunteer members of the Fire Department—ask?~~

~~d.~~ City Manager

eDd. City Attorney

fEe. Persons engaged under contract to supply expert, professional, technical, or any other services

gFf. Other positions so designated

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1.67 At-Will Employment

All City employees are hired on an at-will basis, which means that the employer can discharge an employee at any time for any reason, with or without notice, and the employee can resign at any time for any reason, with or without notice.

1.78 Employment Guidelines

These policies ~~rules and regulations~~ are guidelines for the City and its employees regarding City employment. It~~They~~ **does not constitute an employment contract.** The City reserves the right to change any personnel policy at any time at its discretion.

1.98 Labor Agreements

With respect to employees whose positions are included in a collective bargaining unit, provisions of the applicable collective bargaining agreements negotiated pursuant to the Public Employment Labor Relations Act MS 179A.01-179A.25, supersede these policies ~~rules and regulations~~ on any subject area covered by both the collective bargaining agreement and these policies~~rules and regulations~~. The City Manager is signatory to any collective bargaining agreement applicable to employees covered.

1.109 Management Rights

The City, through the City Manager, retains the full and unrestricted right to operate and manage all personnel, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct, and determine the number of personnel; to establish work schedules, and to perform any inherent managerial function not specifically limited by current collective bargaining agreements, these regulations, and City Council resolutions.

1.110 Work Rules and Policies

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These policies describe work conducted expected of all City of Brooklyn Center employees. These may be expanded upon or modified from time-to-time as deemed appropriate by the City Manager. Such additional or modified work rules or policies will be communicated to employees.

No attempt has been made here to address all possible work situations or to identify every possible form of employee misconduct. Employees of the City of Brooklyn Center are expected to exercise reasonable and proper judgment in all aspects of their employment and to conduct themselves in a responsible, business-like manner at all times. Conduct that has a negative effect upon the City, or its safe and productive operation, or other persons, is prohibited.

1.124 Wage Disclosure

Under the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages. While the Minnesota Government Data Practices Act (Minn. Stat. §13.43), specifically lists an employee's actual gross salary and salary range as public personnel data, Minnesota law also requires wage disclosure protection rights and remedies to be included in employer personnel handbooks. To that ~~end~~end and in accordance with Minn. Stat. §181.172, employers may not:

A. Require nondisclosure by an employee of his or her wages as a condition of employment.

B. Require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wages.

C. Take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.

D. Retaliate against an employee for asserting rights or remedies under Minn. Stat. §181.172, subd. 3.

The city cannot retaliate against an employee for disclosing his/her own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the city and/or file a complaint with the Minnesota Department of Labor and Industry at (651) 284-5070 or (800) 342-5354.

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SECTION 2 - DEFINITIONS

Unless otherwise indicated, the following words and terms have meanings indicated below:

Appointing Authority–
The City Manager or other City employee to whom the Manager has delegated authority to appoint personnel.

Appointment–
aA regular assignment to a paid position in the City service.

City–
The City of Brooklyn Center.

Days–
Calendar day; including Saturday, Sunday, and holidays unless otherwise specified. ~~A day is one 8—hour period, unless otherwise specified.~~

Demotion–~~a~~
A change of an employee's status from a position in one job class to a position in another job class with less responsible duties and could result in a lower salary range.

Department Head–
Those who are responsible for management of a department as determined by the City Manager, City Charter or ordinance.

Employee–
A person holding a paid position in the City service.

Employment Status–

A. **Regular**
R~~r~~efers to employees who have successfully completed their probationary period of employment with the City. These employees may work varying numbers of hours per week and they are regularly scheduled for a set number of hours per week. The work they perform is of an on-going nature as approved by the City Manager

B. **Regular Full-time–**
An employee in a position classified to work a 40-hour workweek and was hired for an indefinite service duration approved by the City Manager

C. **Regular Part-time**
—An employee in a position classified to work less than 40 hours per week on a regular

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basis for an indefinite service duration approved by the City Manager. ~~Regular part-time employees are not eligible for benefits.~~

D. Non-regular

~~r~~Refers to employment in the following categories: temporary, seasonal, student or intern. Non-regular employees are not eligible for City employee benefits.

E. Temporary Full-time~~—~~

An ~~non-benefit earning~~ employee who works a 40 hour workweek, whose employment is limited by duration of a specific project or task; temporary employees may not be appointed for a period to exceed 24 consecutive months.

F. Temporary Part-time~~—~~

An ~~non-benefit earning~~ employee who works less than a 40-hour work week ~~,~~and whose employment is limited by duration of the specific project or task, not ~~: temporary employees may not be appointed for a period~~ to exceed 24 consecutive months.

G. Seasonal~~—~~

An ~~non-benefit earning~~ employee who works for a limited duration (100 days or less) ~~in a position(s) that do not extend for one complete year~~ to conduct seasonal work. Seasonal employees are typically hired for program or project- based seasonal activities.

H. Student or Intern

~~–~~An ~~non-benefit earning~~ employee who is enrolled full-time in a public, non-profit or private educational institution or who has completed such course work. The work schedule of the student or intern will be developed by the City Manager or department head based on the needs of the department and the educational requirements. Students or interns may work on a part-time or full-time basis or both without a limitation on the length of employment but typically not more than two years.

I. Probationary Employee ~~– An employeea~~

An employee, who is serving a probationary period in a position which the employee was appointed, promoted, demoted, reclassified or reinstated.

FLSA

~~–~~Fair Labor Standards Act which is a federal law regarding minimum wage and overtime compensation, classifying positions as exempt or non-exempt.

~~nA.~~ A. ~~–~~Exempt Employee~~, e~~

Employee specifically exempt from the overtime compensation provisions of the state or federal ~~applicable~~ FLSA (Fair Labor Standards Act) ~~legislation~~ as defined and limited by administrative rules and regulations; these employees generally have as their primary duty management, administration, or work of a professional nature.

~~2b.~~ B. ~~:~~ ~~N~~Non-exempt~~–e~~

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Employees who are entitled to a minimum wage and overtime compensation pursuant to state or federal ~~applicable f~~Fair ~~l~~Labor ~~s~~Standards Act. ~~legislation (FLSA).~~

~~——~~**Immediate Family~~—~~**

The immediate family includes the following individuals of the employee and the employee's spouse: mother, father, siblings, spouse, children and grandparents unless specifically stated otherwise.

~~——~~**Layoff~~—~~**

A separation of employees necessitated by lack of work, lack of funds, the abolition of a position, organization change, or any other management reason.

~~——~~**Military Leave~~—~~**

The leave of absence granted by state law to employees entering active duty in the armed forces of the United States.

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~~——~~**Overtime~~—~~**

All hours actually worked in excess of 40 by a regular non-exempt employee in a workweek consisting of seven consecutive days (168 hours.) Definition does not include public safety positions.

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Position~~—a~~

A group of current duties and responsibilities requiring the full-time or part-time employment of one person.

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~~**Regular Full-Time** – an employee in a classified position who works a 40-hour work week and was hired for a service duration in excess of 12 months and has successfully completed the probationary period.~~

~~**Regular Part-Time** – an employee in a classified position who works less than the 40-hour work week and was hired for service duration in excess of six months and has successfully completed the probationary period.~~

~~**Temporary Full-Time** – an employee who works a 40-hour work week whose employment is limited by duration of a specific project or task; temporary employees serve at the will of the City Manager.~~

~~**Temporary Part-Time** – an employee who works less than the 40-hour work week whose employment is limited by duration of the specific project or task; temporary employees serve at the will of the City Manager.~~

~~**Probationary Employee** – an employee who is serving a probationary period in a position to or from which the employee was appointed, promoted, transferred, demoted, reclassified or reinstated.~~

Comment [A3]: Duplication of above definition.

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Probationary Period~~—a~~
A six to twelve month working trial period.

Promotion–
~~a~~A change of an employee from a position of one job class to a position of another job class with more responsible duties and a higher salary range.

Reclassification~~—a~~
A change in classification of an individual position by raising it to a higher job class, reducing it to a lower job class, or moving it to another class at the same level on the basis of significant changes in kind, difficulty or responsibility of the work performed in such a position as approved by the City Manager.~~.~~

Veteran~~—a~~
A person defined as a veteran by Minnesota Statutes, Section 197.447.

Veteran's Preference~~—t~~
The preference granted to veterans by Minnesota Statutes.~~, Sections 43A.11 and 197.481.~~

Workday~~—8~~
Eight (8) hours, to be used for full time calculation of benefits, leave, etc. unless otherwise specified.

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SECTION 3 - CONDUCT AND ETHICS

3.1 Sexual Harassment Prevention

This sexual harassment policy applies to all officials and employees of the City including regular full-time and regular part-time employees, elected and appointed officials, temporary, seasonal and non-regular employees, employees covered or exempted from personnel rules or regulations, and independent contractors and consultants.

Sexual harassment is a form of sex discrimination prohibited by state and federal law. Employees have the right to a workplace free of sexual harassment.

The City will not tolerate sexual harassment of its employees by anyone including supervisors, other employees, officials or citizens. Persons harassing others will be promptly and firmly disciplined. All personnel must become familiar and comply with this policy.

~~1~~A. Definition of Sexual Harassment

Sexual harassment includes, but is not limited to, unwelcome sexual advances, request for sexual favors, sexually motivated physical contact, or communication of a sexual nature when:

~~a~~1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment or public service;

~~b~~2. Submission to or rejection of such conduct by an employee is used as the basis for an employment decision such as promotion, assignment, demotion, discipline, or discharge;

~~c~~3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

~~2~~B. Examples of Sexual Harassment

~~Behavior that could be considered s~~Sexual harassment may include, but is not limited to:

~~a~~1. Verbal harassment (e.g., sexually-oriented comments, innuendoes, or derogatory remarks);

~~b~~2. Physical harassment (e.g., unwelcome touching, gestures, assault, impeding one's movement or other physical contact that an employee finds offensive);

~~c~~3. Visual forms of harassment (e.g., derogatory posters, letters, poems, graffiti, cartoons or drawings); or

~~d~~4. Requests for sexual favors or unwelcome sexual advances.

~~3~~C. Reporting Procedure

Employees who believe they have experienced sexual harassment or who know of conduct they believe might constitute sexual harassment toward an employee, are required to report it to their supervisor or department head, the Human Resources Director ~~Assistant City Manager~~ or the City Manager or designee for gender

inclusion representation. The Supervisor or a Department Head who receives the report should inform the Human Resources Director ~~Assistant City Manager~~ or the City Manager in confidence as soon as possible. If any employee directly receives an oral or written complaint from an alleged victim of sexual harassment, he or she must immediately forward the complaint to the Human Resources Director ~~Assistant City Manager~~ or the City Manager or direct the alleged victim to report the incident. Failure to forward a report of alleged sexual harassment to the appropriate person could result in disciplinary action against the person who neglected to make the report.

4D. Investigation and Recommendation

Upon receiving any report alleging sexual harassment, the Human Resources Director ~~Assistant City Manager~~ or City Manager will conduct an investigation. To the extent possible, the allegations and investigation will be kept confidential. An alleged victim may have a staff person of the same gender present during all contacts with the Human Resources Director~~Assistant City Manager~~. The alleged victim and any witnesses may be asked to put their reports in writing.

If the facts are found to support the allegations, the harasser will be subject to disciplinary action up to and possibly including immediate termination depending on the circumstances and severity of the harassment. The Human Resources Director ~~Assistant City Manager~~ may report on the investigation and its results to the City Manager. The City will keep a complete record of the nature of the complaint, its investigation and its resolution.

Pending completion of the investigation, the designated personnel representative may take any appropriate action necessary to protect the alleged victim, other employees, or citizens.

Anyone who makes a false complaint of sexual harassment or anyone who gives false information during a sexual harassment investigation could also be subject to disciplinary action up to and including immediate termination.

The City may also discipline any individual who retaliates against a person who ~~testifies,~~testifies, assists or participates in any manner in a sexual harassment investigation. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

3.2 Respectful Workplace

This policy is to maintain a respectful work and public-service environment free from violence and other offensive or degrading remarks or conduct. The City will not tolerate such behavior by or toward any employee or official. Any employee or official of the City who engages in such behavior is subject to consequences.

A. Definition of Inappropriate Workplace Conduct

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All employees and officials are prohibited from engaging in behavior that interferes with a professional, productive, respectful working environment, including behavior that is disrespectful, obscene, inappropriate, violent or offensive. Prohibited behavior includes, but it not limited to:

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1. Offensive, disrespectful, or obscene remarks about or conduct relating to another employee or member of the public;
2. Behavior that includes the use of physical force or intimidation when the impact causes physical or emotional pain, fear, or hurt or a reasonable fear of the same;
3. The abuse of power or authority, including verbal abuse, toward other employees or members of the public;
4. Making threatening remarks, swearing or gestures;
5. Intentionally damaging or threatening to damage employer property or the property of another employee, or member of the public;
6. Deliberate or careless conduct endangering the safety of other employees.

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B. Reporting a Complaint

1. City employees and officials should report concerns or complaints about inappropriate workplace conduct to their Supervisor, the Human Resources Director, or the City Manager.
2. Supervisors must report concerns or complaints about inappropriate workplace conduct to the Human Resources Director or the City Manager.
3. Depending upon the nature and seriousness of the allegation or complaint, the Human Resources Director or City Manager will determine the scope of any investigation or follow-up procedures.
4. Individuals found to have violated this policy may be subject to discipline, up to and including dismissal.
5. No retaliatory action will be taken against any person who makes a complaint about or reports inappropriate workplace conduct.

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3.23 Drug and Alcohol Testing—

~~POLICY OF CITYolicy of City.~~ It is the City's policy to provide a drug-free, safe, and secure work environment. No employee may be under the influence of, use, manufacture, possess, sell, or transfer drugs or alcohol while the employee is working, on City property, or operating a City vehicle, machinery, or equipment, except to the extent authorized by a valid medical prescription. This Policy shall be interpreted consistently with Minn. Stat. Sec. 181.950 *et seq.* and applicable federal law.

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A. ~~REPORTINGeporting.~~

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Employees must report, to their department head, any conviction under a criminal drug statute for violations occurring on or off work premises during the employee's workday or while conducting City business. A report of the conviction must be made within five days after the conviction as required by the Federal Drug-free Workplace Act of 1988.

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B. ~~TYPES OF TESTING~~Types of Testing. ~~Any department head? or t~~The City Manager or Human Resources Director may order the drug and alcohol testing. All employees and job applicants are subject to drug and alcohol testing in the following circumstances:

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~~A~~a1. Job Applicant Testing.
The City may require that all applicants who have received conditional offers of employment undergo drug and alcohol testing. If the offer of conditional employment is subsequently withdrawn, the City will notify the applicant of the reason for the withdrawal.

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~~b~~2.B. Routine Physical Examination Testing.
Any employee may be required to undergo drug and alcohol testing as part of a routine physical examination. The drug or alcohol test will be requested no more than once annually and the employee will be given at least two weeks' written notice that the test shall be required as part of the examination.

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~~c~~3.C. Random Testing. An employee in a position in which impairment caused by drug or alcohol usage would threaten the health or safety of any person may be required to undergo random drug and alcohol testing. In addition, employees who are required to have a commercial driver's license, are subject to random testing as required by federal law.

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~~d~~4D. Reasonable Suspicion Testing.
Any employee may be required to undergo drug and alcohol testing if there is a reasonable suspicion that the employee: (a) is under the influence of drugs or alcohol; or (b) has engaged in the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on City property or operating a City vehicle, machinery, or equipment; or (c) has sustained a personal injury arising out of and in the course of employment, or caused another person to sustain a personal injury; or (d) has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

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e5.E. Treatment Program Testing.

Any employee may be required to undergo drug and alcohol testing if the employee has been referred by the City for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under the City insurance, in which case the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

C. ~~TESTING LABORATORY~~esting Laboratory.

A laboratory meeting all requirements of state law, including those set forth in Minn. Stat. Sec. 181.953, shall handle all drug and alcohol testing.

D. ~~RIGHTS OF EMPLOYEES AND JOB APPLICANT~~Sights of Employees and Job Applicants.

1. Before undergoing drug or alcohol testing, the employee or job applicant shall complete a form provided by the City (1) acknowledging that the employee has seen a copy of the City's drug and alcohol policy, and (2) indicating consent to undergo the drug and alcohol testing.
2. If an employee or applicant tests positive for drug use, the City will give written notice of the right to explain the positive test. The City may request that the employee or applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.
3. Within three working days after notice of a positive test result on a confirmatory test, the employee or applicant may submit information to the City to explain that result or may, request a confirmatory retest of the original sample at the employee's or the applicant's own expense. If the confirmatory retest does not confirm the original positive test result, the City will not take any adverse personnel action against the employee or applicant based on the original confirmatory test and will reimburse the employee for the expense of the retest.
4. An employee or job applicant has the right to request and receive from the City a copy of the test result report on any drug or alcohol test.

E. ~~NOTICE OF TEST RESULT~~Sotice of Test Results.

Within three days after receipt of a test result report from the testing laboratory, the City shall provide to the employee or job applicant a written report indicating: (1) a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test, and (2) the right to request and receive a copy of the test result report.

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In the case of a positive test result on a confirmatory test, the City shall also inform the employee or applicant in writing of the right to explain the result (identified in section Rights of Employees and Job Applicants~~VI~~, para. B of this policy); an employee's rights under section Discipline~~X~~ of this policy; or, in the case of a job applicant, that the job offer will be withdrawn.

F. ~~CONFIRMATORY RETEST~~Confirmatory Retests.

An employee or job applicant may request a confirmatory retest of the original sample at the employee's or job applicant's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the employee or applicant shall notify the City in writing of the intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City shall notify the original testing laboratory that the employee or applicant has requested the laboratory to conduct the confirmatory retest or transfer the sample to another laboratory to conduct the confirmatory retest. The original testing laboratory shall ensure that the chain-of-custody procedures in state statute are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.

G. ~~RIGHT TO REFUSE TESTING AND CONSEQUENCES~~Right to Refuse Testing and Consequences.

Employees and job applicants have the right to refuse to undergo drug and alcohol testing. However, failure to comply with the City's drug and alcohol policy, and refusal to take a drug and alcohol test upon request shall subject an employee to discipline, including discharge. If an applicant refuses to test, the job offer will immediately be withdrawn.

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H. ~~DISCIPLINE~~iscipline.

1. The City may not discharge, discipline, discriminate against or request or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. An employee who has a positive test result on a confirmatory test, when this is the first such result for the employee, will be subject to discipline but shall not be discharged unless (1) the employee has been given an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency, and (2) the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program as evidenced by withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program.
3. The City may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, if the City believes that it is reasonably necessary to protect the health or safety of the employee, coemployees, or the public. An employee who has been suspended without pay will be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
4. The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of medical history information revealed to the City pursuant to section Rights of Employee and Job Applicant~~VI~~ of this policy unless the employee was under an affirmative duty to provide the information before, upon, or after hire.

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I. ~~DATA PRIVACY~~Data Privacy.

Test results and other information gathered under this policy will be treated as private data on individuals. Positive results will be disclosed to the employee, the employee's Department Head and the City ~~Administrator~~Manager. Results will not be disclosed to others unless requested in writing by the employee or required by law.

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~~3.34 APPEAL PROCEDURESppeal Procedures. [*The city is not required to have an appeal procedure, but must state what the procedure is if it decides to make on available.*]~~

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~~**Drug and Alcohol Free Work Place**~~

~~Employees are required to report to work on time and in appropriate mental and physical condition for work as determined by their supervisor. No employee shall be under the influence of any drug or alcohol while the employee is engaged in conducting the business of the City, or while the employee is operating the employer's vehicle, machinery or equipment. working or while the employee is on the employer's premises or operating the employer's vehicle, machinery or equipment, except to the extent authorized by a valid medical prescription.~~

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~~Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.~~

~~As a condition of employment, employees of the City must abide by the terms of this policy and must report to their appropriate supervisor any instance of the employee's being charged under a criminal drug statute for a violation occurring on or off work premises. If the employee's job requires the ability to drive a motor vehicle, the employee must immediately notify the appropriate supervisor of any temporary loss of driving privileges.~~

~~Any such convictions must be reported to the City Manager or to a person designated by the City Manager within five (5) days after the conviction as required by the federal Drug Free Workplace Act of 1988.~~

~~1. Drug and Alcohol Testing~~

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~~a. Purpose~~

~~This policy is to provide for the testing of employees and job applicants in conformance with the requirements of MN Statutes sections 181.950 – 181.957.~~

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~~b. Scope~~

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~~This drug and alcohol testing policy applies to all employees of the City~~

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and to all job applicants who have received a contingent offer of employment by the City.

c. Definition

For the purposes of the Policy, the following definitions will apply:

1. *Alcohol* - Ethyl alcohol.
2. *Confirmatory Test* and *Confirmatory Retest* - A drug or alcohol test that uses a method of analysis allowed under one of the programs listed in Minnesota Statute Section 181.953, Subd. 1.
3. *Conviction* - A finding of guilty (including a plea of "nolo contenders") or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of state or federal criminal drug statutes.
4. *Drug* - A controlled substance as defined in Minnesota Statute Section 152.01., Subd. 4. and/or if required by law, the federal Drug-Free Workplace Act of 1988.
5. *Drug and Alcohol Testing, Drug or Alcohol Testing, and Drug or Alcohol Test* - Analysis of a body component sample according to the standards established under one of the programs listed in Minnesota Statute Section 181.953, Subd.1 for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
6. *Drug paraphernalia* - An item or items described in Minnesota Statute Section 152.01, Subd. 18.
7. *Employee* - A person, independent contractor or person working for an independent contractor who performs services for the City of Brooklyn Center for compensation, in whatever form. defined as an employee of the City under the State of Minnesota Public Employment Labor Relations Act in Section 179A.03, Subd. 14.
8. *Employer* - The City of Brooklyn Center acting through its City Manager or a designees of the City ManagerCouncil.
9. *Initial Screening Test* - A drug or alcohol test which uses a method of analysis under one of the programs listed in Minnesota Statute Section 181.953, Subd. 1. and which is capable of detecting the presumptive presence of a drug, drug metabolite, or alcohol in a sample.
10. *Job Applicant* - A person who applies to become an employee of the City, and includes a person who has received a job offer made contingent on the person passing a drug test.
11. *Premises* - All property and locations in which the City is operating or has established a presence.
12. *Positive Test Result* - A finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minnesota Statute Section 181.953, Subd. 1. An alcohol test will be considered positive if the testee has an alcohol concentration level of at least .02 or a lesser level if it is accompanied by an odor of an alcoholic beverage or signs of physical impairment in violation of the City's Personnel Policy. A residue amount of alcohol will be considered a positive test result only if accompanied by a violation of the City's personnel policies.
13. *Reasonable Suspicion* - A basis for forming a belief based on specific facts and rational inferences drawn from those facts.
14. *Safety-sensitive position* - A job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.
15. *Under the influence* - Having the presence of a drug or alcohol at or above the level of a positive test result.

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d. **Circumstances under which testing may occur:**
Any employee or job applicant of the City may be tested under the following circumstances:

1. *Job Applicant*
A job applicant may be requested or required to undergo drug and alcohol testing after a job offer has been conditionally made and before commencing employment in the position. If a job offer is withdrawn, the City shall inform the applicant of the reasons for its actions. Alcohol testing will not be a part of a post-offer pre-employment physical examination.

2. *Treatment Program Testing*
The City may test any employee referred by the City for chemical dependency treatment or evaluation at any time and without prior notice during the period of treatment or evaluation and for up to two (2) years following completion of any prescribed chemical dependency treatment or evaluation program in accordance with Minnesota Statutes 181.951, Subd.6.

3. *Reasonable Suspicion Testing*
No employee will be tested for drugs or alcohol under this policy without the person's consent. If, however, the City asks an employee to undergo a drug or alcohol test and the employee refuses, the employee may be subject to disciplinary action.

The City may request or require an employee to undergo drug or alcohol testing if the employer has a reasonable suspicion that the employee:
a. is under the influence of drugs or alcohol;
b. has violated the employer's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is on the employer's premises or operating the employer's vehicle, machinery, or equipment;
c. has sustained or caused another person to sustain a work related personal injury; or
d. has caused a work related accident or was operating or helping to operate machinery, equipment, or vehicle involved in a work related accident.

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~~e. Criteria for Selecting Testing Laboratories~~

~~When an employee or job applicant is to undergo drug or alcohol testing, the testing laboratory shall be certified and accredited to meet the criteria in accordance with Minnesota Statutes 181.953, Subd. 1.~~

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~~f. Refusal to Undergo Testing~~

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~~1. Job Applicants - Job applicants may refuse to undergo drug testing. However, if a job applicant refuses to undergo drug testing requested or required by the employer, no such test shall be given and the job applicant shall be deemed to have withdrawn the application for consideration for employment.~~

~~2. Employees - Employees may refuse to undergo drug testing. However, if an employee refuses to undergo drug and alcohol testing carried out in conjunction with this Policy the employee may be subject to discipline including, but not limited to, discharge.~~

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~~g. Tampering with the Urine or Blood Sample:~~

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~~If an employee tampers with his or her own urine or blood sample, or in any way deliberately causes a sample to be invalid, the employee may be subject to discipline including, but not limited to, discharge.~~

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~~h. First Failure to Pass Drug and Alcohol Testing~~

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~~Without evidence of any other misconduct, any employee who for the first time has a positive test result on a confirmatory test will not be subject to discipline or discharge, including but not limited to discharge unless:~~

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~~1. The City has given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency; and~~

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~~2. The employee has either refused to participate in such a program or has failed to successfully complete the program within a reasonable time as evidenced by withdrawal or a positive test result on a confirmatory test after completion of the program.~~

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~~i. Failure to Pass Drug and Alcohol Testing~~

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~~1. *Initial Screening Test (Employee)* - The City will not discharge, discipline, discriminate against or require rehabilitation of an employee solely on the basis of a positive Initial Screening Test that has not been verified by a Confirmatory Test. However, the City may temporarily suspend a tested Employee whose test results are positive or transfer the Employee to another position at the same rate of pay pending the outcome of a Confirmatory Test (and, if requested, a Confirmatory Retest) if the City believes it is necessary to protect the health or safety of the employee, co-workers or the public. An employee who is suspended without pay will be reinstated with back pay if the outcome of the Confirmatory Retest is not positive. Requests for such a Retest must be made in writing within five (5) days of the employee's receipt of notice of the test results. An employee who receives a positive test result on a Confirmatory Test and does~~

not request in writing a Confirmatory Retest within five (5) working days after notice of positive Confirmatory Test results, may be subject to discipline including, but not limited to, discharge subject to the provisions of this policy.

2. *Initial Screening Test* (Job Applicant) - The City will not withdraw a conditional offer of employment on the basis of a positive test result on a job applicant's Initial Screening Test. An Initial Screening Test must be verified by a Confirmatory Test (and a Confirmatory Retest, if requested) before a conditional offer of employment can be withdrawn. A job applicant who receives a positive test result of a Confirmatory Test, fails or refuses a Confirmatory Retest, or does not request in writing a Confirmatory Retest within five (5) days after notice of a positive test result of a positive test result of a Confirmatory Test, may be refused employment and will be notified of the reasons for such refusal.

3. *Confirmatory Test* - Discipline for a Confirmatory Test verifying a positive test result on an Initial Screening Test may include discharge of an employee; provided, however, that prior to discharge, the employee is given the opportunity to explain a positive test result and request and pay for a Confirmatory Retest on the original sample. If the Confirmatory Retest is not positive, no action will be taken against the employee. If the Confirmatory Retest is positive, and if it is the first positive retest result for the employee, the employee will not be terminated if the employee elects to participate, at the employee's own expense, in a drug or alcohol treatment or rehabilitation program, whichever is appropriate. An employee who either refuses to participate in the treatment or rehabilitation program or who fails to successfully complete the treatment or rehabilitation program (as evidenced by withdrawal of the program before its completion or by a positive test result on a Confirmatory Test during or after completion of the program), may be subsequently discharged.

j. Rights of Employee or Job Applicant or Notice of Test Results

1. An employee or job applicant who receives a positive test result on a Confirmatory Test has the right to receive a copy of the test result report and, within three (3) working days of notice of the original positive Confirmatory Test result, to submit information to the City in addition to any information already submitted to explain that result, or within five (5) working days to notify the City in writing of the employee's intention to obtain a Confirmatory Retest of the original sample at the employee's or job applicant's own expense.

2. If the Confirmatory Retest is conducted in accordance with rules established by the Commissioner of the Minnesota Department of Health by a qualified laboratory in accordance with Minnesota Statute Section II, E., and if it is not positive, the City shall reimburse the employee or job applicant for the actual cost of the Confirmatory Retest in an amount not to exceed $100.00 and no adverse personnel action shall be taken against the employee or job applicant based on the original Confirmatory Test.

k. General Testing Procedures

All testing will be performed by a licensed laboratory that certifies its compliance with the requirements of Minnesota Statutes 181.953 et. seq. When the City decides to test for drug or alcohol use on any of the grounds enumerated in Section II, D., the following procedures will apply:

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Comment [A5]: Section number needs to be clarified.

1. *Initial Screening Test*

a. Acknowledgment. Before the Initial Screening Test, the employee or job applicant shall be informed of the City's testing policy and given a form on which the employee or job applicant can acknowledge being so informed. The form shall allow the employee or job applicant to indicate any medication (prescription, signed for, or over-the-counter) that the individual is currently taking or has recently taken and other information relevant to the reliability of or explanation for a positive test result. Medical information disclosed on the form shall not be used as the basis for any adverse personnel action.

Comment [A6]: What does "signed for" mean?

b. If the Initial Screening Test produces a negative result, written notice of such result will be given to the individual who took the test within three (3) working days after the City receives the test result report. The employee or applicant will also be notified that they have the right to request and receive a copy of the test report.

c. The testing laboratory will perform a Confirmatory Test on all samples that produce a positive test result on the Initial Screening Test.

2. *Confirmatory Test.* If the Initial Screening Test produces a positive test result, a second test (known as the Confirmatory Test) will be conducted by the laboratory. If the Confirmatory Test is not positive, the City will send written notice of this fact to the employee or job applicant within three (3) working days after receiving the result.

If the Confirmatory Test produces a positive test result, the City will take the following four steps:

a. The City will send written notice of the positive test result within three (3) working days after receiving it to the employee or job applicant.

b. The employee or job applicant will be informed of the right to receive a copy of the test result.

c. The employee or job applicant will be told of the right to explain the positive result.

d. The employee or job applicant will be informed of the right to request a Confirmatory Retest of the original sample at the employee's or job applicant's expense. The employee or job applicant has five (5) working days in which to notify the City of this request in writing.

3. *Confirmatory Retests.* If an employee or job applicant chooses to request a Confirmatory Retest, the employee or job applicant has five (5) working days within which to notify the City of this request in writing. Within three (3) days of the receipt of such request, the City will notify the original testing laboratory that it is to conduct a Confirmatory Retest or transfer the sample to another certified laboratory for retesting. If the Confirmatory Retest does not confirm the original positive test result, no adverse personnel action will be taken by the City. If the confirmatory Retest is positive, the City may withdraw its conditional offer of employment to a job applicant or terminate an employee if such employee chooses not to participate in a chemical

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~~dependency treatment or evaluation program.~~

~~**l. Data Privacy**~~

~~Test result reports and other information acquired in the drug and alcohol testing process are private data on individuals as defined in Minnesota Statutes, Chapter 13, and may not be disclosed to another employer or to a third party individual, governmental agency, or private organization without the written consent of the employee or applicant tested, unless otherwise permitted by law or required by court order. (See Minnesota Statutes 181.954, Subd. 3.)~~

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~~m. Other Misconduct~~

~~Nothing in this Policy limits the right of the City to discipline or discharge an employee on grounds other than a positive test result in a Confirmatory Test. For example, possession but not consumption of a controlled substance, the sale of a controlled substance on City premises, or conviction under any criminal drug statute for a violation occurring in the workplace, may by themselves, be grounds for discipline or discharge. Any City employee may be subject to discipline up to and including termination for violation of this Policy or any rules adopted by the City with respect to the manufacture, use, sale, or transfer of drugs and alcohol.~~

~~n. Administrative Responsibility~~

~~1. The City Manager shall be responsible for implementing this Policy.~~

~~2. Each Department Manager [Head?] and Supervisor shall be responsible for informing their employees of this Policy.~~

~~3. Each employee of the City shall be notified of this Policy. Employees shall acknowledge in writing that they received of their notification of this Policy.~~

~~2.~~ Drug Free Workplace

~~:~~

~~In~~ In accordance with federal law, the City of Brooklyn Center has adopted the following policy on drugs in the workplace:

A. Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the city's intent and obligation to provide a drug-free, safe and secure work environment.

B. The unlawful manufacturing, distribution, possession, or use of a controlled substance on city property or while conducting city business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

C. The city recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate.

D. Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting city business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

~~The City recognizes the value of having a drug-free workplace and in conjunction with the Drug-Free Workplace Act of 1988 adopts the following policy:~~

~~1. The unlawful manufacturing, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace. For purposes of this section, the term "controlled substance" is defined as a controlled substance which appears in Scheduled I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812).~~

~~2. A violation of this drug-free policy constitutes "just cause" for disciplinary~~

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Comment [A7]: Some of this is repetitive of what is on pg 10 under "Drug and Alcohol Free Work Place". We should revise to eliminate the overlap

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~~action, up to and including immediate suspension or termination, or both.~~

~~3. As a condition of employment, employees will abide by the terms and conditions of this drug-free policy and will notify their department head of any criminal drug statute conviction for which a violation occurs in the workplace within five calendar days after such conviction.~~

~~4. The City will notify the contracting agency within ten calendar days after receiving actual notice of an above conviction.~~

Comment [A8]: What is the "contracting agency"?

~~5. Within 30 days of receiving notice from an employee of a drug related workplace conviction, the City may require an employee to satisfactorily participate in a drug abuse assistance or an appropriate rehabilitation program.~~

~~6. The City will establish a drug-free awareness program to inform employees about:~~

~~a. the dangers of drug abuse in the workplace;~~
~~b. the policy of maintaining a drug-free workplace;~~
~~c. the availability of drug counseling, rehabilitation and employee assistance programs;~~
~~d. the penalties that may be imposed upon employees for drug abuse violations.~~

~~Each situation will be evaluated on a case-by-case basis depending upon the severity and circumstances.~~

~~The City will make a good faith effort to continue to maintain a drug-free workplace through implementation of this policy.~~

3.~~3~~45 Tobacco Use ~~(MOVE THIS TO MORE APPROPRIATE SECTION)~~

Tobacco products (i.e. chewing tobacco, smoking, etc.) are prohibited in City buildings and vehicles.

3.~~4~~65 Gifts and Gratuities

An employee may not solicit any gift or gratuity from any other employee or member of the general public. In no instance may a gift or gratuity be solicited or even hinted. In no instance may any gift or gratuity be accepted by a City employee, even if the gift or gratuity was unsolicited.

There are very limited exceptions to what is considered a gift or gratuity. The exceptions include:

A.~~1~~1.a. A plaque or similar memento recognizing an individual's services in a field of specialty or to a charitable cause.

B2.b2. A trinket or memento costing $5 or less. ~~(Changed per City Council Resolution 2005-163.)~~

C3~~c~~3. Informational materials of unexceptional value.

D4~~d~~4. Food or beverage given at a reception, meal, or meeting away from your normal place of work by an organization before whom you are appearing to make a speech or answer questions as a part of a program. All other gifts of food or beverage are prohibited. Vendor contributions to a meeting of local officials for breakfasts, hospitality rooms, snacks, or refreshments are prohibited.

E5~~e~~5. Usual or customary gift giving among employees during the holiday season, birthdays, retirements, weddings, baby showers, rolls, cookies, flowers, etc., provided by coworkers.

F6~~f~~6. Gifts from a family member.

Good judgment is advised. When you are faced with a situation concerning the acceptance of an item, you should seek approval from your supervisor prior to its acceptance and, if not resolved with your supervisor, proceed up the departmental ladder. It is important that each of of us maintain high standards of public service and remain within the letter and spirit of ethical ethical behavior.

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3.5~~6~~7 Membership on Advisory Commissions

City employees are, pursuant to City Council policy, ineligible for appointment or service on City Advisory Commissions. City employee participation with commissions is assigned by the City Manager.

3.6~~7~~8 Firearm Policy

The possession or carrying of a firearm by City of Brooklyn Center employees, other than sworn Police Officers, is prohibited while acting in the course and scope of employment for the City, including working in City buildings, on City property or at any off-site location, and while driving or riding in a City-owned vehicle in any location on behalf of the City. The term "possession" includes but is not limited to storing firearms in lockers, desks, file cabinets, etc., or in City-owned vehicles. For the purposes of this policy, employees are full- and part-time regular employees; temporary, seasonal and recurring employees; City Council members; City Advisory commission members; fire fighters; interns; volunteers; and independent contractors.

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Any firearms brought onto City-owned parking areas by an employee must be placed out of sight in a personal vehicle. The vehicle must be locked and all reasonable precautions taken to prohibit unauthorized entry into the vehicle.

If a City employee drives his or her personal vehicle on any City business, including responding to on-call work from home after regular work hours, he or she must remove any firearm(s) from the vehicle prior to use of the vehicle for City business.

Non-sworn employees of the Brooklyn Center Police Department may handle firearms as necessary to fulfill their job requirements such as marking or transporting evidence and performing assigned tasks in the Police Department property room.

Violations of this policy are subject to disciplinary action in accordance with the City's disciplinary procedures policy. ~~(Added per City Council Resolution 2003-173.).~~

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SECTION 4 - RECRUITMENT/EMPLOYMENT

4.1 Position Opening Authorization

Department Heads will notify the Human Resources Director~~City Manager~~ and make recommendations when a replacement vacancy exists in a department or when there is a desire to fill a newly created position. The City Manager will review the request and recommendations and advise the department head on the proper course of action. The City Manager is the final authority in the filling of all positions.

4.2 Recruitment

The recruitment of applicants for employment with the City shall take place at the direction of the City Manager through Human Resources.

4.3 Notification of Appointment

The City Manager will notify the candidate selected for appointment in writing. The notification must include the employment starting date and salary.

The Department Head must provide the newly appointed employee with a current position description to indicate those duties and responsibilities for which the employee is accountable.

4.4 Probationary Period

The probationary period begins immediately upon the employee's starting date and continues for six (6) to twelve (12) working months unless otherwise specified in union contract. The Department Head must inform the City Manager of employee's successful completion of the probationary period.

All newly hired or rehired employees will serve a six (6) to twelve (12) month probationary period. At any time during the probationary period newly hired, promoted, or rehired employees may be terminated, demoted, or reassigned at the sole discretion of the employer. No cause for discharge is necessary.

Time served in temporary positions is not considered part of the probationary period.

4.5 Dismissal During the Probationary Period

A Department Head may recommend to the City Manager dismissal of a probationary employee at any time during probation for any reason. The employee must be notified of the termination date in writing from the City Manager.

4.6 Benefits During Probationary Period

Sick and vacation leave will accrue during the ~~initial~~ probationary period. Sick and vacation leave may be used as earned under the same conditions as applicable to non-probationary employees. ~~(Changed per City Council Resolution 98-110.)~~

Comment [A9]: Is it necessary to indicate the "initial" period?

~~**4.7 Reference Checks**~~

~~All reference checks for current or terminated employees must be routed to Human Resources.~~

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4.87 Employment of Relatives

More than one family member may not be employed within any department where one immediate family member or relative supervises or has the ability to hire, fire or promote another relative, or where there may be a conflict of interest or not in the best interest of the City as determined by the City Manager.

Comment [A10]: We should change "family member" and "relative" to "immediate family member" assuming you mean it to be consistent with how that term is defined in the definitions section. If you mean something other than that, it should be defined differently here.

4.98 Discipline

City employees will be subject to disciplinary action for failing to fulfill their duties and responsibilities, including observance of work rules. It is the policy of the City to administer discipline without discrimination. Disciplinarye action may include oral warning, oral reprimand, written reprimand, demotion, transfer, suspension or termination. Disciplinary action ~~may include involving~~involving a suspension or dismissal is subject to state law on veteran's preference, existing collective bargaining agreements and state and federal laws. The dismissal of an employee is considered a separation not in good standing.

4.910 Grievances

Regular full and part-time employees claiming a grievance shall timely submit such grievance to the employee's supervisor who shall consider and examine the grievance and attempt to resolve it to the extent of their authority. If the grievance is not resolved at the supervisory level, it may be referred by the employee to their department head who shall consider and examine the grievance and attempt to resolve it. If the grievance is not resolved at the department head level, it may be referred by the employee to the Human Resources Director~~Assistant City Manager~~ for disposition. The decision of the City Manager is final.

Comment [A11]: Only "regular" employees able to submit a grievance?

The City assures there will be no retaliation as a result of bringing a claim forth, ~~or~~ cooperating in an investigation, or submitting a grievance.

4.101 ~~Declaration of Affirmative Action~~ EEO Policy Statement

This is to affirm the City of Brooklyn Center's policy of providing ~~E~~equal ~~O~~opportunity to all employees and applicants for employment in accordance with all applicable federal, state and local laws. ~~Equal Employment Opportunity/Affirmative Action laws, directives and regulations of Federal, State, and Local governing bodies or agencies thereof, specifically Minnesota Statutes 363.~~

The City of Brooklyn Center will not discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national origin, ancestry, sex, sexual or affectional orientation, disability, age, marital status, status with regard to public assistance, ~~or~~ familial status, veteran status, or membership on a local human rights commission, genetic information, gender identity or gender expression, and lawful participation in the Minnesota Medical Cannabis Patient Registry.

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The City of Brooklyn Center will take all necessary steps ~~Affirmative Action~~ to ensure that all employment practices are free of such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer,

recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

~~The City of Brooklyn Center will commit the time and resources reasonably necessary, both financial and human, to achieve the goals of Equal Employment Opportunity and Affirmative Action.~~

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Comment [A12]: This is repetitive of above

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The City of Brooklyn Center will evaluate the performance of its management and supervisory personnel on the basis of their involvement in achieving these ~~Affirmative Action~~ equal employment opportunity objectives as well as other established criteria. Any employee of this City who does not comply with the ~~E~~equal ~~E~~employment ~~Oppportunity~~opportunity policies and procedures as set forth in this statement and plan may be subject to disciplinary action.

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No part of this program is to be construed as a contract between the City of Brooklyn Center and any individual employee. It does not describe in any way the terms and conditions of employment of City employees. Such terms and conditions are set forth in, and the employment relationship is governed by, applicable collective bargaining agreements, employment agreements, or the personnel rules of the City.

The City of Brooklyn Center has appointed the Human Resources Director~~Assistant City Manager~~ to manage the Equal Employment Opportunity policy~~/Affirmative Action program~~. The Human Resources Director's ~~Assistant City Manager's~~ responsibilities will include monitoring all Equal Employment Opportunity activities and reporting the effectiveness of this policy ~~Affirmative Action program,~~ as required by Federal, State and Local agencies. Brooklyn Center City Manager will receive and review reports on the progress of the program. If any employee or applicant for employment believes he/she has been discriminated against, please notify the Human Resources Director~~Assistant City Manager~~.

Comment [A13]: Kelli, we should discuss this section. What, if any, reporting are you doing?

SECTION 5 – WORK SCHEDULES~~NEW SECTION – Work Schedules~~

5.1 Attendance

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Employees shall work the normal hours and the minimum number of hours a week as established for their positions in their respective departments. Each employee shall ensure that time worked and absences are correctly reported, ~~and the distribution of hours worked are charged to their proper accounts~~. Failure to correctly report time and/or falsification of documents may result in discipline up to and including termination. Unauthorized leave in excess of three work days is considered resignation not in good standing by the employee.

Comment [A14]: "Accounts"?

45.2 Flexible Daily Work Hours

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Notwithstanding the normally established and observed daily work hours for employees, employees may, with the express written approval of their department head, establish and observe individual flexible daily hours. Individual flexible daily work hours shall not be permitted where such has an adverse impact on the employer's operation or on other employees. Flexible schedules, if approved, are on a case by case basis for a time-frame determined by the department head with no long-term guarantee. Approval of continued flexible schedule is at the discretion of the Department Head and/or City Manager~~supervisor~~.

Comment [A15]: Subject to change by the Dept Head and/or City Manager?

45.3 Hours of Work, Meals and Breaks

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A workweek consists of seven consecutive days (168 hours) beginning at 12:01 a.m. each Sunday. The regular workweek for full-time City employees is 40 hours; 80 hours constitutes a normal pay period. Normally, City offices will be open for business Monday through Friday from 8:00 a.m. to 4:30 p.m. Regular office hours may be changed by the City Manager. The hours of work and work schedules within each division and department will be set by the department head, with approval of the City Manager.

In most cases, full-time employees will have one uninterrupted meal period of no less than one-half hour per day. Meal periods are not paid, not included in the computation of overtime, nor included in the computation of a normal work shift or payroll period. Rest periods will be 15 minutes in each four-hour period for FLSA non-exempt employees. Meal periods may not be accumulated or taken at the end or beginning of the employee's shift on a regular basis.

Exempt employees are required to work the hours necessary to perform their job at their established rate of pay.

Essential employees, as defined by law, and other public safety employees, may be required to work a different schedule due to the specialized nature of their employment.

45.4 Inclement Weather

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In the event of severe inclement weather, the City Manager may determine whether an emergency exists in which the public interest will be best served by closing the City

office or offices. If a City office is closed due to a weather emergency, the following apply:

~~a.~~A. Employees are expected to listen ~~to~~ to WCCO for announcements of closing of City facilities are not to report to work if their work site is not open. If notice of closing has not been broadcast by 7:00 a.m. of the workday or if your department head or supervisor has not contacted you, employees may assume that the City facilities will be open.

~~b.~~B. If ~~When a City facility is closed or~~ an employee determines that they cannot make it to work because of inclement weather, the employee must utilize earned vacation or comp time to compensate for time off.

Comment [A16]: Does this need to be updated? Use other methods – texts? Website notice? Social media?

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Comment [A17]: Is this true regardless of whether management decides to close city hall?

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SECTION 56 - EMPLOYEE COMPENSATION

56.1 Compensation Plan

The City Manager must develop and maintain a compensation plan so all positions substantially similar with respect to the type, difficulty, and responsibility of work are included in the same grade and that the same salary range may be applied to all positions in a grade.

The plan shall classify positions in accordance with federal and state laws for all positions. The City Manager will present the compensation plan to the City Council for its approval. The effective date of the compensation plan shall be the date stated in the plan approved by the City Council.

56.2 Reclassification/Job Analysis

~~When the duties of a position change substantially, the Department Head may request or the City Manager may initiate a review of the duties of the positions. Based on the results of the review, the City Manager may reclassify the position.~~In compliance with pay equity and our compensation plan, each position in the City shall be assigned a job value representing its relative value in the organization. Job values shall be a primary consideration when determining pay for our employees. All positions are grouped (banded) into classes based on the job evaluation system of point totals as well as job duties, skills and abilities, responsibility, required knowledge and experience and other pertinent factors. Internal and external factors are used to assign an appropriate pay range to each banded class of positions.

The method whereby point values are determined shall be consistently applied to all positions in the City. It is the responsibility of the Human Resources Director to develop and maintain a current job analysis program consistent with this policy.

A. When are positions reviewed?

All position descriptions will be reviewed at least every 10 years automatically to determine if the work of the incumbent is consistent with the job description. A salary market review will be conducted at least every ten years even if there have been no changes in job responsibilities. Job descriptions will be reviewed prior to filling a vacancy and when a new position is created. Job values will be reviewed as needed or requested by Department Heads not more frequently than every three years unless substantial changes in job duties have occurred. When a position is substantially changed, the following steps are required to initiate consideration for job analysis of a position:

B. How to request job analysis

The employee and their immediate supervisor should submit the current job description and a revised job description to the appropriate Department Head for review. Any addition(s), deletion(s) and/or substantial modification(s) must be clearly identified. If the Department Head agrees there is sufficient reason to

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warrant further consideration of a job analysis, they should forward the documentation to the City Manager with a memo detailing the reasons for the changes and requesting consideration for job analysis.

If the request is due exclusively to a change in market conditions the Department Head should review the salary data submitted in support of a job analysis review and submit this information to the City Manager

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C. Review process

The City Manager will submit the documentation to the Human Resources Director for review. After HR review a decision to proceed or not to proceed with the analysis will be made. If the decision is not to proceed a written explanation will be provided to the Department Head and the process will end.

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The primary factors for job analysis review consideration will be the following:

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1. Are there substantial change in the level of responsibility, and or significant changes in the minimum job qualifications?
2. Is there a reason to believe that market conditions have changed substantially since the pay level was established?

Once review approval is granted, the Human Resources Director shall send the job description for analysis to the City's consultant. Analysis may consist, but is not limited to review of the following information: job description, organizational structure, benchmark jobs, comparison with internal positions and the market.

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If a market analysis is performed the position will be compared with our comparison cities: Crystal, Fridley, Golden Valley, Maplewood, New Hope, Richfield, Roseville, Shoreview, and White Bear Lake. In the rare case where the fore stated comparison cities do not offer a reasonable sample of similar job classifications, the City Manager may authorize the substitution of other metro cities for comparison.

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D. ~~6.6~~ Recommendation

The Human Resources Director shall discuss the findings of the job analysis with the Department Head and submit a recommendation to the City Manager. Based on the findings the position may stay at the same level, be assigned to a higher level or a lower level based on the results of the job analysis.

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An adjustment will be based upon whether the job analysis points are significantly lower, higher, or are not properly classified with similar points.

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E. ~~6.7~~ Decision

The City Manager may approve, deny, or seek clarification on the recommendation.

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~~6.8 Salary change~~

F. In general, the following philosophy will be used when there are changes in salary as it relates to a change in job value, based on City Manager approval. All salary changes will be made in conformance with the city compensation plan.

Job Value increase: Salary may be increased within the new pay range.
Job Value decrease: Salary may be frozen or decreased to fit within the pay range.
No change in job value: No change in salary.

Changes in salary shall be made within a reasonable timeframe (not greater than 120 days) of completion of the review and approval by the City Manager.

Market based adjustments will be considered when the current position range is not within 5% of the average (arithmetic mean) of the comparable position in the comparison cities.

G. ~~6.9~~ **Delivery and Implementation**

The Department Head shall inform the employee of the results of the job analysis process. The Department Head shall be responsible for completing the appropriate paperwork and Human Resources will be responsible for implementing the necessary changes to the pay plan, etc. based on the City Manager's decision.

H. ~~6.10~~ **Appeals**

An employee who disagrees with the result of the job analysis may appeal, in writing, to the Human Resources Director within 30 calendar days of receipt of the decision. With the appeal, the employee must submit information stating the reasons for their disagreement and include a statement and documentation/data supporting a recommendation for resolution. The City Manager will review the information received in the appeal and inform the employee of the final decision on job analysis within 30 calendar days of receipt of the appeal information. The City Manager may take into consideration the information submitted, and/or gather additional information as needed. The decision of the City Manager is final. The job analysis process and outcome is not subject to the grievance procedure.

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56.3 Overtime/Compensatory Time - Fair Labor Standards Act

Pursuant to federal and state wage and hour laws, ~~employees classified as full-time and~~ nonexempt employees ~~under FLSA~~ who are authorized to work overtime and who work in excess of 40 hours in a ~~the regular scheduled~~ workweek ~~or pay period~~ will be compensated at a rate of one and one-half times their base rate of pay for hours worked in excess of 40. ~~their regular schedule. FLSA mandates that the City classify employees in regards to overtime/compensatory time as one of the following categories: FLSA Exempt Employee or FLSA Non-Exempt Employee.~~

~~1. FLSA Exempt Employee~~

~~Exempt employees are not paid for overtime over 40 hours unless otherwise provided by collective bargaining or contract agreement. Exempt employees are generally employees who are classified as professional, administrative, executive and seasonal recreation, under the FLSA exempt status.~~

~~2. FLSA Non-Exempt Employees~~

~~Overtime or compensatory time must be paid at a rate of one and one-half times the non-exempt (this includes full-time, part-time and temporary employees) employee's regular rate of pay for each hour worked in a work week in excess of 40 hours per week.~~ Paid holidays, paid leave time (sick and vacation) and comp time used are counted as time worked for the purpose of computing overtime hours. Unpaid leave is not counted towards hours worked.

~~5~~6.4 Compensatory Time - Non-Exempt Employees

~~FLSA n~~Non-exempt employees have the option of selecting compensatory time at the rate of one and one half times their regular rate of pay in lieu of overtime, to a maximum of 40 hours of comp time accrual.

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Comment [A18]: These terms are already defined in the Definitions

Comment [A19]: This is not required by law. Paid leave time legally is not counted toward "hours worked".

~~5~~6.5 General Rules - Overtime/Comp Time

All overtime and comp time to be worked **must** be pre-approved by the Department Head prior to working overtime or comp time. Failure to obtain prior approval of overtime and comp time may result in discipline.

~~5~~6.6 Temporary Fill-In at a Higher Classification

From time to time employees may be asked to fill in temporarily at work in a higher classification. The assignment will be made by the Department Head with the approval of the City Manager.

If a temporary assignment extends beyond 20 working days, additional compensation at the higher classification may be provided. The duration of a temporary assignment may not exceed six months, unless authorized by the City Manager.

SECTION 67 - GENERAL BENEFITS ~~– FULL TIME - START HERE~~

67.1 Cafeteria Benefits Plan Eligibility

Regular full-time employees who work 40 hours per week are eligible for benefits. The City will provide a contribution for regular full-time employees as approved by City Council.

67.2 Health Insurance

Regular full-time employees may purchase ~~H~~health benefits ~~may be purchased by employee~~ as made available through the Employer's Cafeteria Benefit Plan. Plans are subject to policy documents.

67.3 Dental Benefits

Regular full-time employees may purchase ~~D~~dental benefits ~~may be purchased by an employee~~ as made available through the Employer's Cafeteria Benefit Plan. Plans are subject to policy documents.

76.4 Life Insurance

Life insurance may be provided for full-time regular employees~~benefit eligible employees~~ through the Employer's Cafeteria Benefit Plan. Employees provided this benefit may purchase additional term life insurance to supplement the insurance coverage provided by the City as well as supplemental and dependent life insurance. Plans are subject to policy documents.

7.5 Deferred Compensation Program

Regular full-time employees are ~~The City~~ provided~~s employees~~ the opportunity to participate in a deferred compensation plan. This voluntary plan allows employees to place a portion of their earnings into pretax deferred investment program. Plans are subject to regulations.

7.6 Flexible Benefits Plan

Regular full-time employees are offered~~The City offers~~ an optional plan in which a portion of the employee's salary can be set aside pre-tax to cover estimated health care and day care costs. The employee must expend all the money set aside in the flexible benefit plan within the calendar year or lose it. Proof of medical and day care expenses must be submitted. Please see plan document for criteria regarding the flexible benefit plan. Plans are subject to IRS regulations.

Comment [A20]: Are the funds set aside pre-tax?

~~GENERAL BENEFITS - REGULAR PART-TIME EMPLOYEES~~

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76.75 P.E.R.A.

Public Employees Retirement Account participation will be maintained for all eligible ~~regular full and part-time~~ employees pursuant to state law.~~ or as regulations specify.~~ The City and eligible employees contribute to PERA each pay period as determined by state law. For details see the PERA manual in the Human Resources Division~~epartment~~. Plans are subject to PERA regulations.

~~76.6 Deferred Compensation Program~~

~~The City provides employees the opportunity to participate in a deferred compensation plan. This voluntary plan allows employees to place a portion of their earnings into pretax deferred investment program. Plans are subject to regulations.~~

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~~76.7 Flexible Benefits Plan~~

~~The City offers an optional plan in which a portion of the employee's salary can be set aside to cover estimated health care and day care costs. The employee must expend all the money set aside in the flexible benefit plan within the calendar year or lose it. Proof of medical and day care expenses must be submitted. Please see plan document for criteria regarding the flexible benefit plan. Plans are subject to IRS regulations.~~

Comment [A21]: Are the funds set aside pre-tax?

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76.8 **Direct Deposit**

The City requires direct deposit for all employees.~~.~~

SECTION ~~7~~8 - LEAVE BENEFITS~~ – Regular Full-Time~~ – Regular Full-time Employees

~~7~~8.1 Official City Holidays

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25
Two Personal Floating Holidays	(See description below)

When a holiday falls on a Saturday the previous Friday is designated as the holiday; when on a Sunday, the following Monday is designated as the holiday for employees whose normal work schedule is Monday through Friday.

Non-union full-time employees who work a holiday will be paid time and one-half employee's regular pay rate for all hours worked in addition to straight compensatory time off for the holiday.

Employees may observe a religious holiday on days which do not fall on Sunday or a legal holiday. Observance of such a religious holiday must be taken off without pay except where the employee has accumulated vacation or comp time and in that case such religious holidays may be charged against such leave accumulations at the option of the employee.

Comment [A22]: Or comp time?

Employees who are in collective bargaining must check their agreements and follow contract language for holiday schedules.

In order to be paid for holiday leave, the benefit earning employee must be working or using vacation, sick or other approved paid leave on both the day before and after the holiday.

~~7~~8.2 Personal Floating Holiday - Regular Full-time Employees

Employees receive two personal floating holidays per year to be used as follows:

A.~~1.~~ Regular full-time employees, employed as of January 1 of each year, shall have one eight (8) hour personal floating holiday to be used within the calendar year. Such floating holiday shall be taken at the employee's discretion upon approval of the employee's supervisor. The floating holiday must be taken as a whole day off and may not be used in partial days. The personal holiday must be used within the calendar year or it will be lost.

B~~2~~. Regular full-time employees, employed as of July 1 of each year, shall have one

eight (8) hour personal floating holiday to be used within the period July 1 through December 31 of that year. Such floating holiday must be taken as a whole day off and may not be used in partial days. The personal holiday must be used within the period July 1 through December 31 of the year in which it is received or it will be lost.

The request for use of a personal holiday follows the same procedure as a request for vacation. ~~(Changed per City Council Resolution 98-109.)~~

~~7~~8.3 **Vacation Leave - Regular Full-time Employees**

~~1~~A. Regular full-time employees shall earn vacation leave at the rate of 6.67 hours for each calendar month of full-time service or major fraction thereof. Regular employees with five consecutive years of service through 10 consecutive years of service shall earn vacation leave at the rate of 120 hours per year. Regular employees with more than ten consecutive years of service shall earn vacation leave according to the following schedule:

During 11th year of service 128 hours per year.
During 12th year of service 136 hours per year.
During 13th year of service 144 hours per year.
During 14th year of service 152 hours per year.
During 15th year of service 160 hours per year.

In the best interest of the City, vacation leave in excess of the established amount specified in this section may be granted by the City Manager.

Employees using earned vacation or sick leave shall be considered to be working for the purpose of accumulating additional vacation leave.

~~2~~B. **Accrual**
Vacation begins accumulating in accordance with date of hire.

~~3~~C. **Usage**
Vacation leave may be used as earned except that the department head shall approve the time at which the vacation leave may be taken.

4D. **Vacation Accumulation**
~~Vacation accumulation, including the current vacation earned from year to year, may not exceed a total accumulation equal to one and one-half times the number of hours the employee is currently earning in one year.~~ The total number of vacation hours carrying over from year to year may not exceed 230 hours, except where approved in writing by the City Manager. Vacation leave up to 230 hours will be paid out to the employee who resigns in good standing.

~~8~~7.4 **Sick Leave - Regular Full-Time Employees**

~~1~~A. Sick leave with pay shall be granted to probationary and regular full-time

Comment [A23]: Part-time employees do not receive pro-rated vacation?

Comment [A24]: Do you want to address payout of vacation upon separation from employment?

employees for each calendar month of full-time service or major fraction thereof. Sick leave shall accrue at the rate of eight hours per month until 960 hours have been accumulated. After 960 hours have been accumulated, sick leave shall accrue at the rate of four (4) hours per month, and simultaneously vacation leave, in addition to regular vacation leave accrual, shall accrue at the rate of two (2) hours per month. Employees using earned sick leave shall be considered to be working for the purposes of accumulating additional sick leave.

Comment [A25]: What does "major fraction thereof" mean?

Comment [A26]: The vacation leave clauses are confusing. Vacation leave PLUS "regular" vacation leave?

~~In the best interest of the City,~~The City Manager may ~~an~~ advance ~~of~~ a maximum of 96 hours of sick leave ~~which must be earned before additional hours accumulate may be granted by the City Manager~~ to newly hired employees who have a minimum of five years of job experience which is directly related to the position for which they are hired. No sick leave will accrue during the first 12 months of employment.

Comment [A27]: I deleted this language because I don't know what it means. It should be re-worded.

Sick leave may be taken as ~~only to the extent that~~ it is earned. Sick leave may be used when an employee is unable to perform work duties due to ~~for~~ illness, injury, disability (including pregnancy), participation in an employee assistance program, ~~or~~ by necessity for medical or dental care appointments. Sick leave may also be used by the employee to care for the employee's spouse, and the following family members: dependents, minor and adult children, including stepchildren, ~~or~~ parents, stepparents, parents-in-law, siblings, grandparents, grandchildren, ~~-~~son-in-law, or daughter-in-law of the employee or employee's spouse. ~~in case of illness or as otherwise approved by the City Manager.~~ The City Manager may require a medical certificate as may be deemed necessary before approving the utilization of sick leave. Sick leave may also be used for absences due to the need for safety leave (providing or receiving assistance because of sexual assault, domestic abuse, or stalking as defined by state law) relating to the employee or any of the family members identified above.

~~2~~B. **Sick Leave Request**

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Employees must notify their immediate supervisor on the first day of sick leave and each day of sick leave request before the start of his or her shift unless otherwise required by the supervisor. When possible, sick leave must be requested in advance.

~~C3~~. **Sick Leave Severance**

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~~Severance pay in the amount of one-third the accumulated sick leave employees have to their credit a~~At the time of resignation, retirement, or death, the City shall ~~pay be paid to~~pay to employees who have been employed for at leave five consecutive years one-third of their accumulated sick leave. If discharged for cause, or lack of appropriate notice, severance pay shall not be allowed.

~~Employees hired after 1/1/92 and having 25 years of continuous service at the time of separation, shall be paid 40% of their accumulated sick leave into the City authorized Health Care Savings Plan. In the event that the retiree benefit in effect~~

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~~on September 1, 2005 is completely eliminated by the employer for employees hired before 1/1/92, the sick leave severance pay for employees hired prior to 1/1/92 and having 25 years of continuous service will be paid at 40% of their accumulated sick leave into the City authorized Health Care Savings Plan. If discharged for cause, severance pay shall not be allowed. (Added per City Council Resolution 2005-163.)~~

8.5 Sick Leave Donation Program~~(We currently do not have a Health Care Savings Plan to offer new hires due to ICMA not being IRS compliant – can we eliminate language?)~~

The City of Brooklyn Center recognizes that a catastrophic or prolonged illness of an employee or their immediate family member may deplete the employee's available paid leave (vacation, sick, and other forms of compensated leave time). This policy is meant to provide staff with the option of assisting employees in such circumstances through voluntary donations of vacation / sick leave accruals. Application of this policy will be approved by the City Manager on a case by case basis.

A. Eligibility:

1. All regular full-time employees will be considered eligible to participate this program.
2. An employee will be eligible to receive donated leave only after all of that employee's accrued leave time has been exhausted.
3. Donation of leave will not be allowed once it is known or has been determined that the employee will not return to work.

B. Process:

To receive donated leave time an employee will submit the following to Human Resources:

1. Request for consideration of leave time donation form
2. Certification from the attending physician or other applicable health care provider
3. Any other relevant information necessary in determining eligibility

The City Manager will review the request and shall have the right to deny use of this policy or to limit its use based solely upon the Manager's discretion.

To donate leave time participating employees shall complete a donation of leave time form.

C. General Information Regarding Leave Donation:

1. The maximum leave time to be received is 160 hours per 12-month period per qualifying situation. This period begins the date that a request for leave time has been made.
2. Donated leave hours will be converted to sick leave and placed in the recipient's sick leave bank. The recipient will be allowed to use these hours in accordance with City Policy.
3. Donations will be made in two-hour increments consisting of one hour of vacation leave and one hour of sick leave.
4. Donors must have a minimum of 160 hours of sick leave in their own bank after donation to participate.
5. Donations will be made anonymously.
6. Donated time may not be reclaimed and the recipient is under no obligation to repay the donation.

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Comment [A28]: Yes, I would update this to be consistent with current practice/policy.
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7. The City Manager retains the right to apply this policy in any manner deemed to be in the best interest of the City. This includes amendment, alteration, and elimination of the policy without notice or negotiation.

8.6 Reasonable Unpaid Work Time for Nursing Mothers

Nursing mothers will be provided reasonable unpaid break time for nursing mothers to express milk for nursing her child for one year after the child's birth. The city will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

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~~7.5~~ **Official Record - Sick, Vacation, and Compensatory**
The City's computerized payroll system is the official record for sick, vacation and compensatory balances.

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8.~~8~~7.6 **Workers' Compensation ~~remove~~?**
An ~~employee~~employee, who is temporarily disabled from work by an injury or illness sustained in the performance of the employee's work with the City, may be eligible for Workers' Compensation payment and additional salary through the use of accrued sick leave. The total of the Workers' Compensation check and the accrued sick leave compensation may not exceed the employee's normal gross pay. For more information on Workers' Compensation contact your supervisor or Human Resources.

Comment [A29]: Obviously, injured employees are entitled to workers' compensation in certain circumstances. I don't see any harm in leaving this in, but that is up to you.

8.~~9~~7.7 **Funeral Leave ~~remove~~?**
Earned sick leave may be taken in the event of a death in an employee's immediate family. In this section, the term "immediate family" includes employee's spouse, and the following family members: dependents, minor and adult children, including stepchildren, parents, stepparents, parents-in-law, siblings, grandparents, grandchildren, son-in-law, or daughter-in-law of the employee or employee's spouse. ~~includes spouse; dependents; parents; grandparents; sisters; brothers; mother and father-in-law; sister or brother-in-law; grandchildren; nieces and nephews.~~ The length of leave will be determined by the Department Head and the City Manager.

Comment [A30]: Do you still offer/allow this? If so, I would leave it in. For consistency, you may want to refer to the same family members as outlined in the sick leave section.

8.~~10~~7.8 **Military Leave**
Employees called to military service ~~who are members of any reserve component of the military forces of the United States or National Guard,~~ will be granted leave of absence without loss of status or pay not to exceed 15 working days per year when ordered to training or active service. The City must receive a copy of the orders from the proper authority directing the employee to report to duty. Military leaves of absence with or without pay shall be granted as provided in Minnesota and Federal Regulations.

8.~~11~~7.9 **Jury Duty**
Any regular or probationary full-time or part-time employee who is required to serve as a juror or who is under subpoena as a witness in court on City matters, will be granted leave with pay while serving in such capacity. The employee must provide the appropriate paperwork to the City prior to the leave being granted. The employee must give any fees received for such service with the exception of mileage or parking, to the City. When employees are excused from jury duty or serving as a witness during their regular working hours, they are expected to return to work if practicable. Temporary employees will be given leave without pay and may retain all fees received.

~~7~~8.12~~0~~ **Bone Marrow and Organ Donation Leave**
~~A regular or probationary full-time e~~Employees working an average of 20 or more hours per week, who seek~~s~~ to undergo a medical procedure to donate bone marrow, an organ, or partial organ to another person, will be granted up to 40 hours of paid leave ~~of absence~~. Employees must provide a medical verification by a physician as to the purpose and

length of each leave requested.

8~~7.13~~ Election Days

Employees eligible to vote in a regularly scheduled state primary or general election may be absent from work for the purpose of voting during the morning of the day of that election, without penalty or deduction from salary or wages because of the absence. A request for time off to vote must be made prior to ~~election day~~Election Day and the supervisor may specify the time when an employee may be absent for voting purposes. ~~(Added per City Council Resolution 2005-163.)~~

8.14~~7.12~~ School Conference and Activities Leave

In compliance with MN Statutes 181.9412~~;~~, ~~regular~~ employees working an average of 20 or more hours per week may take unpaid leave up to a total of 16 hours during any 12-month period to attend school conferences or school-related activities related to the employee's child, provided the conferences or school-related activities cannot be scheduled during non-work hours. Parental leave must be requested in writing in advance and processed through the Department Head or Supervisor. An employee may ~~request~~ use accrued ~~of~~ vacation or other paid leave ~~or leave without pay~~ for leave under this section.

8~~7.13~~5 Parenting Leave

~~In compliance with MN Statues 181.941; regular~~ Pursuant to state law, certain employees ~~who are a natural or adoptive parent in conjunction with the birth of adoption of a child~~ shall be granted an unpaid parenting leave ~~of absence~~ for a period not to exceed ~~six~~ twelve (12) weeks upon the birth or adoption of a child or for prenatal care of incapacity due to pregnancy, childbirth, or related health conditions. Eligible employees are those who have: 1) been employed by the City for at least 12 months preceding the request for leave; and 2) worked an average of 20 hours or more per week.

~~_____.~~ Eligible employees anticipating parenting leave must submit a written request to their supervisor, who will forward the request to human resources, before the anticipated birth or adoption of the child whenever possible. A parenting leave must ~~may~~ not begin more than ~~six weeks~~ twelve (12) months after the birth or adoption of the child, unless ~~.~~ ~~If~~ the child ~~must~~ remains in the hospital longer than the mother, then the leave ~~may~~ must not begin more than ~~six weeks~~ twelve (12) months after the child leaves the hospital.

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No vacation or sick leave, or other benefits will accrue during the leave period. Employees shall be eligible for group health insurance benefits during the leave, but will be responsible for any costs of insurance premiums. Employees are entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave.

Comment [A31]: We should discuss the insurance premium issue. Employers can make employees pay under the state parenting leave law, but under FMLA, an employer has to maintain the status quo. You may want to do the same across the board or just maintain current practices.

8.16 Employee Volunteer Leave

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Employees may~~will~~ be paid up to 20 hours annually to participate in local community volunteer~~ing~~ activities. This leave must be pre-approved by your supervisor prior to volunteering for the event. This program is to encourage our employees to become more

engaged with the community of the City of Brooklyn Center.

~~(Added per City Council Resolution 2005-163.)~~

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~~7~~8.14~~6~~7 **Unpaid Leave of Absence**

Employees must submit a written request for an unpaid leave of absence to the department head for approval with the final determination to be at the discretion of the City Manager. A ~~l~~leave of absence without compensation may be granted by the City Manager for up to six calendar months to an employee for any reasonable purpose and extended by the City Manager for any reasonable period.

Sick and vacation leave will not accrue during an unpaid leave of absence. Accrued amounts of both sick leave and vacation leave will remain on the record at the inception of the leave of absence and shall continue upon the return of the employee. If the leave extends for more than 30 days, health and dental coverage and life insurance premiums must be paid in full by the employee during such leave or the coverage will lapse.

For unpaid leaves of absence of 30 days or less, the City will continue its normal premium contribution or as policy allows.

~~7~~8.15~~7~~8 **Family Medical Leave Act – FMLA**

Family Leave is governed by the Family Medical Leave Act of 1993 as amended and Federal Regulations. FMLA provides a 12-week unpaid job-protected leave for certain employees in certain circumstances. ~~The City will adopt and comply with the Act (FMLA, Title 29, Part 825 of the Code of Federal Regulations) and all future revision to the Act.~~ The following is a summary of the Family Medical Leave Act and how it applies to employees of the City of Brooklyn Center. A copy of the Federal Regulations is available for review from the human resources division.

A. ~~1.~~ **Eligible Employees** — Formatted: Font: Bold

Eligible employees are those who have:

a1. Been employed by the City of Brooklyn Center for at least 12 months; and

~~b~~2. Have worked a minimum of 1,250 hours within the previous 12-month period immediately preceding ~~your~~ the request for leave.

~~2~~B. **Circumstances Covered by Family Leave** — Formatted: Font: Bold

FMLA leave will be granted to an eligible employee for any of the following reasons:

a1. Birth of a child and to care for the newborn child;

2~~b~~. Place of a child with the employee for adoption or foster care;

3e. Employee is needed to care for a family member (child, spouse, or parent) with a "serious health condition;"

4~~d~~. Employee's own "serious health condition" that makes the employee unable to perform the functions of his or her job; or

5e. Any "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active

duty (or has been notified of an impending order to active duty) in support of a contingency operation.

a. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

~~f~~6. Covered Service member (Military Caregiver) Leave

In addition, the FMLA allows an eligible employee who is a spouse, son, daughter, parent or next of kin of a covered service member to take a total of 26 work weeks in a single 12-month period to care for a covered service member who suffers a serious injury or illness while on active duty.

a. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties. The service member must be undergoing medical treatment, recuperation or therapy, in outpatient status, or on the temporary disability retired list as a result of the line of duty serious injury or illness.

~~3~~C. Serious Health Condition

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Federal law defines a serious health condition as an illness, injury, impairment, or physical or mental condition that involves either:

~~a~~1. Inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or

~~b~~2. Continuing treatment by a health care provider, which includes:

~~1~~a. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:

- treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
- one treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of continuing treatment (e.g., prescription medication, physical therapy); or

~~b~~2. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence;

~~c~~3. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A

visit to a health care provider is not necessary for each absence; or

4d. A period of incapacity that is permanent or long term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or

5e. Any absence to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days if not treated.

4D. Length of Leave Formatted: Font: Bold

The length of FMLA leave is not to exceed 12 weeks in any 12-month period. The entitlement to FMLA leave for the birth or placement of a child expires 12 months after the birth or placement of the child.

5E. Leave Year Formatted: Font: Bold

The leave year will begin the first day the employee is absent from work on FMLA leave.

6F. Notice Formatted: Font: Bold

The employee must give the City at least 30 days advance notice if the leave is foreseeable. If leave must be taken in less than 30 days, the employee should give as much notice as is practicable. An Eemployee must submit their leave request in writing to their department head. The leave must be approved by the employee's department head and the eiCity mManager and is subject to the following provisions and the operating needs of the department. If an employee fails to apply for FMLA the City may declare coverage under the provisions of the law on their behalf.

G7. Medical Certification Formatted: Font: Bold

The employee must provide a medical certification if the leave is for the serious health condition of a child, spouse, parent or the employee. The employee must provide a medical certification completed by the attending physician or practitioner indicating the need for the leave. Forms are available from Human Resources. The City may require a second or third medical opinion at the City's expense.

H8. Use of Annual Leave and Sick Leave Formatted: Font: Bold

The employee may choose to use accrued annual leave while on any FMLA leave, but will not be required to do so by the City.

Those employees with accrued sick leave banks may choose to substitute sick leave in place of annual leave, or they may choose to supplement their leave with sick-leave hours after their annual leave has been depleted.

The use of annual leave and/or sick leave occurs simultaneously with FMLA leave and does not extend the length of FMLA leave.

I9. Both Spouses Employed by City Formatted: Font: Bold

~~When a husband and wife~~ Spouses who are eligible for FMLA leave and are both employed by the ~~same employer~~ City may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's child or to care for the child after the birth, or for placement of a child with the employee for adoption or foster care or to care for the child after placement. ~~This limitation in the total weeks of leave applies to leave taken for the reasons specified as long as a husband and wife are employees of the City.~~If the leave is for other qualifying reasons, each spouse may take up to 12 weeks of FMLA leave per leave year. The leaves may run simultaneously.

~~10~~J. Continuation of Insurance and Payment of Premiums Formatted: Font: Bold

An employee on FMLA leave may choose to continue existing health-care benefits (health and dental) and life insurance if they so desire. These benefits will be maintained under the same conditions and at the same level of City contribution as before the employee goes on leave. If there are changes to the City's contribution levels and/or premium rates while the employee is on leave, those changes will take place as if the employee were still on the job. The employee will be required to continue payment of the employee portion of the health-care and/or other insurance coverage they choose to continue.

The employee may choose not to retain health-care or other insurance coverage during FMLA leave. When the employee returns from leave, they will be reinstated on the same terms as prior to taking leave, without any qualifying period, physical examination, exclusion of pre-existing conditions or other requirement.

~~11~~K. Premium Reimbursement Formatted: Font: Bold

The employee will be required to reimburse the City for any premiums paid during the leave if the employee does not return to work, unless the employee cannot return to work due to the continuation of a serious health condition of the child, spouse, parent or employee, or due to other circumstances beyond the control of the employee.

~~12~~L. Effect on Benefit Accrual Formatted: Font: Bold

The employee will not accrue benefits such as annual leave while on unpaid FMLA leave. Step increases will be extended by the length of the leave.

M~~13~~. Key Employees Formatted: Font: Bold

Employees who are not "key" employees will be reinstated to their same position or an equivalent position upon return from leave with equivalent pay, benefits and working conditions. A key employee is defined as a salaried employee who is in

the highest ten percent of all employees within 75 miles of the work site. Key employees may be denied reinstatement to the same or an equivalent position after a leave if denial is necessary to prevent substantial economic injury to the City's operations.

~~7.16 Limitation of Grants of No Accrual of Paid Leave During an Unpaid Leave of Absence without Compensation~~

~~Sick and vacation leave accruals will not accumulate accrue during an unpaid leave of absence, without compensation; aAccrued amounts of both sick leave and vacation leave will remain on the record at the inception of the leave of absence and shall continue upon the return of the employee. If the leave extends for more than 30 days, health and dental coverage and life insurance premiums must be paid in full by the employee during such leave or the coverage will lapse.~~

~~For unpaid leaves of absence without compensation of 30 days or less, the City will continue its normal premium contribution or as policy allows.~~

~~78.17689~~ **Leave Extension Request**

Failure on the part of the employee to request and receive authorization for an extension of leave within three working days of expiration of initial leave is considered as a resignation from employment.

~~78.201978~~ **Reinstatement from Leave of Absence**

~~A1~~. An employee returning from leave must notify the employee's supervisor at least two weeks prior to the anticipated return date.

~~B2~~. Upon return from a leave of absence, the employee will be assigned to the previously held position or a position in a comparable class except as herein provided.

~~C3~~. An employee may be returned to employment at any time prior to the expiration of the leave by the action of the City Manager.

~~D4~~. Employees returning from leave will retain all previously accrued benefits of employment and seniority.

Comment [A32]: Should this be combined with section 7.14?

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Comment [A33]: Are 7.17 and 7.18 subsets of 7.16? Are these sections referring to unpaid leaves of absence?

Comment [A34]: What type of leave?

Comment [A35]: Same comment.

SECTION 98 - LIGHT DUTY

98.1 Purpose

The purpose of this policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. Light duty is evaluated by the City Manager on a case-by-case basis. This policy does not guarantee assignment to light duty.

89.2 Policy

The City of Brooklyn Center's Light Duty Program is for short-term, temporary disability-type purposes; assignment of light duty is at the discretion of the City Manager. The City Manager reserves the sole right to determine when and if light duty work will be assigned.

98.3 Procedure: Applying for Light Duty Work

When an employee is unable to perform the essential requirements of the employee's job due to a temporary disability, the employee will notify the City Manager or Department Head in writing as to the nature and extent of the disability and the reason why the employee is unable to perform the essential functions, duties, and requirements of the position. This notice **must** be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability including the expected time frame regarding return to work full time with no restrictions, meeting all essential requirements and functions of the City's position description along with a written request for light duty.

The City may require an independent evaluation conducted by a physician selected by the City to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

It is at the discretion of the City Manager whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis, light duty is recommended to last no longer than six months.

The circumstances of each disabled employee performing light duty work will be reviewed regularly.

9.4 Reasonable Accommodations to an Employee for Health Conditions Relating to Pregnancy

The city will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth:

A. More frequent restroom, food, and water breaks;
B. Seating;
C. Limits on lifting over 20 pounds; and/or
D. Temporary transfer to a less strenuous or hazardous position, should one be available.

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Unless such accommodations impose an undue hardship on the city, the city will engage in an interactive process with respect to an employee's request for a reasonable accommodation.

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SECTION 109 - SEPARATION FROM EMPLOYMENT

109.1 Resignation/Termination

A1. To leave employment in good standing, employees must submit written rresignation to the employer. Such written notices must indicate the effective date of resignation and must be submitted at least fourteen (14) calendar days before such effective date. Failure to comply with this procedure may be considered cause for denying future employment by the municipality and denial of benefits.

B2. Unauthorized Absences. Unauthorized absence from work for a period of three working days may be considered as resignation without benefits.

109.2 Dismissal

Because City employees are at-will employees. Tthe City may ~~retains the right to an immediate~~ discharge ~~of~~ an employee at any time for any reason, with or without notice.

109.3 Reduction in Force/Lay-Offs

The City Manager may lay off any employee whenever such action is made necessary by reason of shortage of work or funds, the abolition of a position, or because of changes in the organization. A full-time benefit earning employee who is laid off from employment shall be provided with a minimum of 14 days advance notice of such layoff or as provided for in any applicable ~~L~~labor ~~A~~agreement.

A laid off full-time benefit earning employee shall have the rights to recall to the same position from which the employee was laid off for up to six months (180 calendar days) following the layoff.

Part-time, seasonal, temporary, and non-benefit earning employees may be separated from employment at any time, without advance notice and shall have no recall rights.

109.4 Continuation of Benefits ~~Upon~~upon Separation – COBRA

Federal law provides that employees who are actively enrolled in a health plan and who have separated from city service may continue on the city's group health, dental coverage plan and life insurance for up to 18 months. Pursuant to applicable state or federal law requirements, changes in family status, eligibility for ~~Medicare,~~Medicare or death of a spouse may warrant continuing coverage for up to 36 months. Continuing coverage premiums must be paid in full by the separated employee, their spouse or dependents, or coverage will lapse. See human resources for plan details. ~~(Added per City Council Resolution 2005-163.)~~

109.5 Benefits for City Retirees

On August 13, 1990, Brooklyn Center City Council adopted Resolution 90-166 establishing Retirement Health Insurance Program. Benefits for City Retirees have continued to be approved by Council through the date of adoption of this document.

It is in the best interest of the City of Brooklyn Center that retiring employees have

available to them at their option a quality health insurance program. Therefore the City established a Retirement Health Insurance Program as follows:

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~~1. Benefits for City Retirees~~

~~A~~a. **Employees Eligible for PERA Retirement**

All employees eligible for a PERA pension separating employment from the City shall have the option of retaining membership in the City of Brooklyn Center's employee health and dental insurance plans as specified in MN Statute 471.61, subd.2b. Retirees may retain coverage of elected benefits upon prompt monthly payment of the full cost of all applicable premiums. Retirees may retain coverage until such time as the retiree is eligible for Medicare coverage or at age 65, whichever is sooner.

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~~B~~b. **Employees Retiring with Full Unreduced PERA Pension with Continuous Full-time Uninterrupted Service with the City of Brooklyn Center and who were hired on or before January 1, 1992**

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Employees, on the day of his/her retirement, who meet eligibility requirements for a full-retirement annuity under PERA or PERA Police without reduction of benefits because of age, disability, or any other reason for reduction shall have the option of retaining membership in the City of Brooklyn Center's employee health insurance plan for which the City will pay the single-person premium until such time as the retiree is eligible for Medicare coverage or at age 65, whichever is sooner. If the retiree desires to continue coverage other than single coverage and is enrolled in that coverage at the time of retirement and if such coverage is available under the City's policies, the additional cost for the coverage shall be paid promptly on a monthly basis by the retiree to the City of Brooklyn Center. The City will follow continuation benefits as specified in MN Statute 471.61, subd.2b.

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In addition, an employee qualifying for this program must have continuous full-time uninterrupted service with the City of Brooklyn Center and be hired on or before January 1, 1992. Employees participate in this program on a voluntary basis. ~~(Amended per City Council Resolution 2004-170.)~~

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9.6 Retiree Health Savings Plan (RHSP) no longer have

The Retiree Health Savings Plan (RHSP) is established to help defray the cost of medical expenses and health insurance premiums for employees, spouses and dependents after the employee leaves employment with the City of Brooklyn Center. (Added per City Council Resolution 2004-171.)

Comment [A36]: I think you could remove all of this unless it still applies to certain employees.

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1. Participation Eligibility

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Regular full-time benefit earning employees may have contributions made on their behalf into the RHSP.

Participants must be 21 years of age or older. Unless noted otherwise in this policy, the minimum period of service required to participate in the plan is 60 days.

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Every eligible employee in an employee group is required to participate in the RHSP for their group as outlined in this Personnel Policy or applicable labor agreement.

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2. RHSP Contributions

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When appropriate, each employee will have an account established in his or her name. Unless specifically noted otherwise, contributions (and earnings) to an employee's RHSP account are not taxable income.

3. Accessing Funds

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a. Employees may access the funds in their RHSP account when they are eligible to retire under the Public Employees Retirement Association's (PERA) rules.

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b. Unless prohibited by the IRS, employees leaving employment with the City prior to being eligible for retirement through PERA, for the reasons noted below, may make withdrawals on a tax-free basis for eligible health-related expenses.

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- Upon termination of employment.
- If employee is collecting a disability.
- If employee is on a medical leave (six months or longer)
- If employee is on a leave of absence (one year or longer).

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If the employee returns to work and is earning medical benefits, they are no longer eligible to make withdrawals from their RHSP account.

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The IRS does not allow these funds to be rolled into any other type of plan, including an IRA.

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c. Access following death. The surviving spouse and eligible dependents continue to access the account for eligible expense reimbursements until the RHSP account is exhausted. Such reimbursements are not taxable. Unless prohibited by the IRS, reimbursements may also be made to a beneficiary other than a surviving spouse or eligible dependent. However, such reimbursements would be taxable to the recipient.

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5. Eligible Expenses Reimbursed by Plan

Funds in an RHSP account may be used to reimburse:

1. Insurance premiums (health insurance premiums, Medicare supplemental insurance premiums, Medicare Part B insurance premiums, COBRA and Chapter 488 insurance premiums, long term care insurance premiums (not long term care expenses), and dental insurance premiums.

2. Most qualifying medical expenses as defined in Internal Revenue Code Section 213 (i.e. medical costs that would otherwise be deductible to the employee on his or her individual income tax return).

A third party claims administrator hired by ICMA-RC will handle claims administration.

6. No Opt-out

Employees and retirees in groups covered by the RHSP program are not permitted to opt-out of the program. Participation is mandatory.

7. Program Administration

Along with the Human Resources Division, the ICMA Retirement Corporation will administer the RHSP program. The employee controls how the money is invested similar to his or her section 457 deferred compensation program. The employee receives an account statement each quarter from ICMA for his or her RHSP account.

8. Administrative Fees

The following administrative fees will be assessed on each employee's account:

Account fee:

1. .90% will be applied to the first $7,000 balance. There is a minimum annual charge of $35.
2. .55% will be applied to assets between $7,001 and $23,000.
3. Accounts greater than $23,000, a maximum annual fee of $150 will apply.

There are also fees within the various mutual funds. Account administration fees will be calculated by ICMA each quarter based on the balance on the last day of the previous quarter and will be charged against the account on a quarterly basis.

9. Plan Modifications

The details of ICMA-RC's administration of the RHSP as well as other features of the plan are set forth in the RHSP materials provided by ICMA-RC. These details and IRS regulations regarding the RHSP may be revised, necessitating the revision to this policy or other agreements between employee groups and the City.

The City reserves the right to modify its policy to comply with any other regulations regarding the plan and to add contribution requirements.

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~~10. Contribution Formulas~~

~~1. Election for Pre-Tax Contributions from Compensation.~~

~~Employees may elect to contribute up to 25% of their compensation.~~

~~*This is a one-time, irrevocable election. Employees must make this decision during the open enrollment period.*~~

~~2. Severance Pay.~~

~~Employees who qualify to receive severance pay and vacation pay upon retiring or leaving the city in good standing , as defined by the Personnel Policy, will designate from 0% to 100% (in 10% increments) to be placed in their individual RHSP accounts at the time of retirement or resignation.~~

~~*This is an irrevocable election. Employees must make this decision during the open enrollment period prior to the beginning of the year in which they will retire.*~~

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SECTION 110 - TUITION REFUND PROGRAM

101.1 Tuition Refund

Regular full-time employees who have passed their initial probation period may be eligible for reimbursement of tuition and required course fees for courses taken for credit through accredited educational institutions.

Tuition reimbursement may be approved for courses with the following criteria:

A~~1~~. a college level course available for credit; and
~~2~~B. course is taken on personal time; and
C~~3~~. course is "work related"; and
D4. grade of "C" or better or "satisfactory" is received upon completion; and
E~~5~~. the training request receives ~~pre-approval.~~pre-approval and final approval by the City Manager.

Full-time employees who have successfully completed probation may be eligible for a 60% reimbursement of books, tuition and required fees upon completion. Employees who have at least five years of consecutive full-time service are eligible for 75% reimbursement. All regular full time employees who are interested in participating in this program must first submit course work to City Manager for pre-approval. Pre-approval forms may be obtained from Human Resources. Employees must obtain pre-approval to ensure they obtain reimbursement through participation in this program. Maximum reimbursement is $1,500 per employee per calendar year; or may be lower due to budget constraints.

SECTION 1~~1~~2 - RECORDS AND REPORTS

1~~1~~2.1 Personnel File

The official personnel file for each regular employee is maintained in the Administration office. Data regarding benefits is maintained in a separate file in the Administration office.

The employee's personnel file contents are proprietary to the City and the employee may not exercise his/her right to review their file more often than once every six months unless new information has been added to the file.

12~~1~~.2 Job Descriptions

The City Manager, with assistance of human resources and department heads shall establish and maintain a job description for each position. Job descriptions will be reviewed and revised as needed. Human Resources will maintain the official copy of each current job description for regular positions.

12~~1~~.3 Performance Reports

Department Heads and Supervisors shall conduct performance evaluations with regular employees on an annual basis. Evaluations may be conducted more frequently if an employee's performance is unsatisfactory, there are changes to the position or as determined by the supervisor. Performance evaluations should be discussed with the employee before being submitted to the City Manager. Performance evaluations shall be retained in the employee's personnel file.

12~~1~~.4 Employee Identification Card Policy

All full-time and part-time regular employees out in the field and/or conducting inspections are required to have a City employee identification card. Other employees will be selected as deemed necessary by the department head.

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Upon termination with the City of Brooklyn Center, employee identification cards must be returned to the appropriate department head/supervisor.

SECTION 132 - EXPENSE REIMBURSEMENT POLICY

132.1 Clothing/Foot Protection

A1. Eligible Employees ~~— do we do?~~

All full and part time regular and seasonal employees in the work area of government buildings divisions and employees engaged in building inspection and engineering inspection/survey; golf course maintenance personnel as well as all others so designated (excluding IOUE Local #49 employees.)

B2. Procedure

Full-time employees will be reimbursed an allowance of $100 per calendar year for purchase of work clothing, protective clothing, safety jackets or vests, steel toed boots/shoes; uniform or rental of such work clothes for use on the job for the City of Brooklyn Center. The employer will reimburse part-time and/or seasonal employees an allowance of $50 per calendar year for the above listed purchases.

The City reserves its right to ensure allowance is used for appropriate work attire. Receipts and description of purchase/rental required prior to reimbursement.

Employees who choose to be reimbursed by the City for the optional clothing and/or footwear described above must submit to his/her supervisor a clothing/foot protection reimbursement form and proof of purchase. The supervisor will then submit this documentation to Finance for reimbursement.

123.2 Mileage Reimbursement

Personal automobile use for authorized trips, meetings, work, etc., will be reimbursed at the rate consistent with IRS regulations. Mileage reimbursement requests must be in writing and approved by the Department Head. Use of personal vehicle for work purposes must be pre-approved by the Department Head.

~~12.3~~13.3 Personnel Expense Reimbursement

Moving Expense: The City Manager may approve expenses for actual cost of moving household goods and up to two trips with spouse to look for housing as related to recruitment of Department Head level positions. ~~(Added per City Council Resolution 2001-152.)~~

Travel: Reimbursements of travel expenses are intended to refund actual costs incurred by City employees and officials while traveling as authorized representatives of the City of Brooklyn Center. In order to qualify for travel reimbursement, trips to a destination exceeding 100 miles from Brooklyn Center must have the prior approval of the City Manager. Requests for travel advances intended to defray costs incurred while on a trip and prior to submission of an expense report shall be submitted to the City Manager for approval at least seven days in advance of the trip. Travel advances shall be limited to 90 percent of the estimated expenses for lodging, meals, and other related travel expenses. Costs of transportation and registration shall be advanced in full.

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A~~1~~. A properly verified, itemized expense claim shall be submitted to the City Manager for approval within ten days following the date of return from an authorized trip. Expense claims shall be accompanied by receipts for:

a1. Transportation costs to and from the destination via coach, tourist, or economy class transportation.

~~b~~2. Lodging costs not to exceed a reasonable single-occupancy rate as determined by the City Manager.

3~~c~~. Conference or meeting registration fees.

4~~d~~. Any unusual items for which advance approval has been obtained from the City Manager.

B~~2~~. The mode of transportation must be approved by the City Manager prior to any authorized trip. Personal automobile use for authorized trips will be reimbursed at a rate consistent with IRS regulations, or an amount equal to air travel tourist class, whichever is lesser.

C~~3~~. Reimbursement for meals while on authorized travel will be for actual expenditures with a maximum of 85% of the federal per diem rate per day. ~~(Changed per City Council Resolution 2005-163.)~~

D4. Reimbursement for mileage is intended to include provision for insurance with a reasonable deductible, which for purposes of this policy is assumed to be $500.00. Employees will be reimbursed for verifiable out-of-pocket expenses incurred for claims or damages relating to the use by the employees of their private vehicles on City business in an amount not to exceed $500.00 per occurrence. Reimbursement shall be made only for claims for damages arising from occurrences in which the employee is driving his or her car away from City Hall, or the employee's workstation, on City business under circumstances that would qualify for reimbursement for mileage. This paragraph does not limit the obligation of the City to indemnify employees for claims covered by Minnesota Statutes, Section 466.07 or other law. ~~(Added per City Council Resolution 2003-54.).~~

132.4 Accrual of Benefits for Airline for City Business

City employees/officials using City funds, traveling on City business and using commercial airlines cannot claim frequent flyer mileage or any other similar type credit as their own. Employees/officials must certify that they have not claimed frequent flyer mileage or similar such credits for personal use when they apply for travel reimbursement for City trips.

Employees/officials are encouraged to obtain a separate frequent flyer card exclusively for City travel. Employees/officials must use frequent flyer tickets earned while traveling on City business for City travel. Employees/officials cannot use frequent flyer miles as reimbursement for City trips.

132.5 City Vehicles

Certain employees of the City are required to drive a City vehicle to their home and keep it there while off duty. They must do so to be able to respond to emergency situations. These emergency situations include fire and police protection, civil defense, and restoring City services such as water, sewer, and streets. It may also be necessary to keep a City vehicle at home for security purposes or other City business purposes. These vehicles must be used for City business use only and cannot be used for the personal use of any employee. Such use is assigned and approved by the City Manager. ~~(Changed per City Council Resolution 2000-118.)~~

City Council Agenda Item No. 6g

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Providing for the Competitive Negotiated Sale of $8,530,000 General Obligation Improvement and Utility Revenue Bonds, Series 2018A

Recommendation:

It is recommended that the City Council consider approval of the attached resolution setting the date of the sale of $8,530,000 General Obligation Improvement and Utility Revenue Bonds, Series 2018A to finance the construction of Firehouse Park Area Improvements and Water Tower No. 2 Reconditioning for June 11, 2018.

Background:

Firehouse Park Area Improvements

The City's Capital Improvement Plan identifies the Firehouse Park Area Neighborhood for reconstruction in 2018, as part of its long-range infrastructure rehabilitation program referred to as the Neighborhood Street and Utility Improvement Program. The program has consisted of a systematic rehabilitation and/or replacement of the City's aging streets, water main, sanitary sewers, sidewalks and street lights.

The Firehouse Park Area project extends from 69th Avenue to Interstate 94 and from Humboldt Avenue to Trunk Highway 252. Dupont Avenue and 65th Avenue are not included in the project area. The total project length is 21,456 feet and the neighborhood consists of approximately 305 single-family residential properties and 14 multi-family properties.

On December 11, 2017 the City Council approved a resolution ordering improvements and authorizing preparation of plans and specifications for the Firehouse Park Area street, storm drainage and utility improvements. City Council also approved a resolution certifying the special assessments on this project.

On April 23, 2018 the City Council accepted the bid and awarded the contract of Firehouse Park Area Improvements to the lowest responsible bidder. The estimated cost of the project (amended per low bid) is $10,491,397, of this total cost, $7,350,000 of street, storm drainage and water infrastructure costs will be financed through bond proceeds and paid from a combination of future special assessments, property taxes and utility revenues.

Water Tower No. 2 Reconditioning/Painting

Water Tower No. 2, a one-million gallon elevated storage tank located at 69th Avenue and Dupont Avenue was constructed in 1960. In 1984 the interior and exterior coating systems were

completely replaced. In 1997 the interior and exterior coating systems were spot repaired, power washed and a urethane top coat was applied to the existing system. The estimated service life for the work completed in 1997 was 15 to 20 years. The tower has been inspected every five years and no further repair work has been completed since.

On April 9, 2018 the City Council accepted the bid and awarded the contract of Water Tower No. 2 Reconditioning to the lowest bidder. The estimated total cost of the project of $1,391,000 will be financed through bond proceeds and paid from future water utility revenues.

Budget Issues:

The Firehouse Park Area Improvements and the Water Tower No. 2 Reconditioning Project were included in the 2018 adopted budget. The Street Reconstruction fund which is the primary source of funding for the City's share of street reconstruction improvements receives approximately $680,000 per year in franchise fees. Franchise fees are not adequate to cover the City's share of street reconstruction expenditures which have an estimated average annual cost of $4.4 million for the years 2018 through 2020 as identified in the Capital Improvement Plan (CIP).

The proposed 2018A bond issue includes approximately $2.1 million in street reconstruction costs that will be repaid from an additional debt service property tax levy. The estimated required levy for the new debt service in 2019 is approximately $258,000, which equates to an approximate 1.5% levy increase for taxes payable in 2019. In comparison, the 2018 budget estimated the need for $2.8 million to be repaid with additional property tax dollars, which would have equated to a $325,000 annual levy (1.9% levy increase). The decrease is a direct result of the accepted low bid on the Firehouse Park Area Neighborhood project at below the engineer's estimated cost.

The Special Assessments Capital Project fund accounts for infrastructure replacement costs that are funded entirely by special assessments. Because special assessments are repaid over ten years, bonds are frequently issued to provide immediate funding for the project costs. The 2018A bond issue includes approximately $1.9 million in street/storm drainage improvements that will be funded by special assessment revenue.

The utility funds pay for infrastructure replacement costs through utility charges. Issuing debt to provide funding for the infrastructure improvements will allow the City to minimize the impact on these charges. The 2018A bond issue includes $3.07 million in water utility costs and $1.47 million in storm drainage costs that will be funded through water and storm drainage utility fees.

Debt Summary (By Repayment Source)	
Property Tax Levy	$2,100,000
Special Assessments	1,900,000
Water Charges	3,065,000
Storm Drainage Charges	1,465,000
Total Debt Issue	$8,530,000

COUNCIL ITEM MEMORANDUM

We have attached a copy of the projected debt schedules for the issuance of bonds prepared by the City's financial advisor, Springsted Incorporated. A bond rating call is expected to take place at the end of May, in which we anticipate that Standard & Poor's will confirm that the bonds will continue to be rated AA.

The anticipated net interest cost of the bond sale is 2.96 percent, which compares to 1.96 percent received on last year's bond issue. Competitive proposals will be received by the City's financial advisor, Springsted Incorporated at 10:00am on June 11th, 2018. Proceeds from the bonds will be received July 10th, 2018.

Strategic Priorities:

- Safe, Secure, Stable Community

EXTRACT OF MINUTES OF A MEETING OF THE
CITY COUNCIL OF
THE CITY OF BROOKLYN CENTER, MINNESOTA

HELD: May 14, 2018

Pursuant to due call and notice thereof, a regular meeting of the City Council of City of Brooklyn Center, Minnesota, was duly called and held at the City Hall in the City on Monday, the 14th day of May, 2018, at 7:00 o'clock P.M.

The following members were present:

and the following were absent:

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION PROVIDING FOR THE COMPETITIVE NEGOTIATED SALE OF $8,530,000 GENERAL OBLIGATION IMPROVEMENT AND UTILITY REVENUE BONDS, SERIES 2018A

BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, as follows:

1. Finding; Amount and Purpose. It is hereby found, determined and declared that the City of Brooklyn Center, Minnesota (the "City"), should issue $8,530,000 General Obligation Improvement and Utility Revenue Bonds, Series 2018A, to finance various street and utility improvement projects within the City.

2. Meeting. This City Council shall meet on the date and at the time and place specified in the form of Terms of Proposal attached hereto as **Exhibit A** for the purpose of awarding the sale of the Bonds.

3. Competitive Negotiated Sale. The City has retained Springsted Incorporated as an independent municipal advisor, and the City Council hereby determines to sell the Bonds by private negotiation, by way of a competitive sale in response to Terms of Proposal for the Bonds which are not published in any newspaper or journal.

4. Terms of Proposal. The terms and conditions of the Bonds and the sale thereof are fully set forth in the "Terms of Proposal" attached hereto as **Exhibit A** and hereby made a part hereof.

5. Official Statement. The City Finance Director and other officers or employees of the City are hereby authorized to participate with Springsted Incorporated in the preparation of an official statement for the Bonds.

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and, after full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
CITY OF BROOKLYN CENTER)
HENNEPIN COUNTY)

I, the undersigned, being the duly qualified and acting Clerk of the City of Brooklyn Center (the "City"), DO HEREBY CERTIFY that I have carefully compared the attached and foregoing extract of minutes with the original minutes of a meeting of the City Council called and held on the date therein indicated, which are on file and of record in my office, and the same is a full, true and complete transcript there from insofar as the same relates to the City's $8,530,000 General Obligation Improvement and Utility Revenue Bonds, Series 2018A.

WITNESS my hand as such Clerk of the City this _____ day of _____, 2018.

_____
City Clerk

EXHIBIT A

TERMS OF PROPOSAL

THE CITY HAS AUTHORIZED SPRINGSTED INCORPORATED TO NEGOTIATE THIS ISSUE ON ITS BEHALF. PROPOSALS WILL BE RECEIVED ON THE FOLLOWING BASIS:

TERMS OF PROPOSAL

$8,530,000*

CITY OF BROOKLYN CENTER, MINNESOTA

GENERAL OBLIGATION IMPROVEMENT AND UTILITY REVENUE BONDS, SERIES 2018A

(BOOK ENTRY ONLY)

Proposals for the above-referenced obligations (the "Bonds") will be received by the City of Brooklyn Center, Minnesota (the "City") on Monday, June 11, 2018, (the "Sale Date") until 10:00 A.M., Central Time at the offices of Springsted Incorporated ("Springsted"), 380 Jackson Street, Suite 300, Saint Paul, Minnesota, 55101, after which time proposals will be opened and tabulated. Consideration for award of the Bonds will be by the City Council at its meeting commencing at 7:00 P.M., Central Time, of the same day.

SUBMISSION OF PROPOSALS

Springsted will assume no liability for the inability of a bidder to reach Springsted prior to the time of sale specified above. All bidders are advised that each proposal shall be deemed to constitute a contract between the bidder and the City to purchase the Bonds regardless of the manner in which the proposal is submitted.

(a) ***Sealed Bidding.*** Proposals may be submitted in a sealed envelope or by fax (651) 223-3046 to Springsted. Signed proposals, without final price or coupons, may be submitted to Springsted prior to the time of sale. The bidder shall be responsible for submitting to Springsted the final proposal price and coupons, by telephone (651) 223-3000 or fax (651) 223-3046 for inclusion in the submitted proposal.

OR

(b) ***Electronic Bidding.*** Notice is hereby given that electronic proposals will be received via PARITY®. For purposes of the electronic bidding process, the time as maintained by PARITY® shall constitute the official time with respect to all proposals submitted to PARITY®. *Each bidder shall be solely responsible for making necessary arrangements to access PARITY® for purposes of submitting its electronic proposal in a timely manner and in compliance with the requirements of the Terms of Proposal.* Neither the City, its agents, nor PARITY® shall have

* *Preliminary; subject to change.*

any duty or obligation to undertake registration to bid for any prospective bidder or to provide or ensure electronic access to any qualified prospective bidder, and neither the City, its agents, nor PARITY® shall be responsible for a bidder's failure to register to bid or for any failure in the proper operation of, or have any liability for any delays or interruptions of or any damages caused by the services of PARITY®. The City is using the services of PARITY® solely as a communication mechanism to conduct the electronic bidding for the Bonds, and PARITY® is not an agent of the City.

If any provisions of this Terms of Proposal conflict with information provided by PARITY®, this Terms of Proposal shall control. Further information about PARITY®, including any fee charged, may be obtained from:

PARITY®, 1359 Broadway, 2nd Floor, New York, New York 10018
Customer Support: (212) 849-5000

DETAILS OF THE BONDS

The Bonds will be dated as of the date of delivery and will bear interest payable on February 1 and August 1 of each year, commencing February 1, 2019. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

The Bonds will mature February 1 in the years and amounts* as follows:

2020	$735,000	2022	$785,000	2024	$850,000	2026	$895,000	2028	$940,000
2021	$750,000	2023	$815,000	2025	$880,000	2027	$920,000	2029	$960,000

* *The City reserves the right, after proposals are opened and prior to award, to increase or reduce the principal amount of the Bonds or the amount of any maturity or maturities in multiples of $5,000. In the event the amount of any maturity is modified, the aggregate purchase price will be adjusted to result in the same gross spread per $1,000 of Bonds as that of the original proposal. Gross spread for this purpose is the differential between the price paid to the City for the new issue and the prices at which the proposal indicates the securities will be initially offered to the investing public.*

Proposals for the Bonds may contain a maturity schedule providing for a combination of serial bonds and term bonds. All term bonds shall be subject to mandatory sinking fund redemption at a price of par plus accrued interest to the date of redemption scheduled to conform to the maturity schedule set forth above. In order to designate term bonds, the proposal must specify "Years of Term Maturities" in the spaces provided on the proposal form.

BOOK ENTRY SYSTEM

The Bonds will be issued by means of a book entry system with no physical distribution of Bonds made to the public. The Bonds will be issued in fully registered form and one Bond, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository for the Bonds. Individual purchases of the Bonds may be made in the principal amount of $5,000 or any multiple thereof of a single maturity through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the registrar to DTC or its nominee as

registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The lowest bidder (the "Purchaser"), as a condition of delivery of the Bonds, will be required to deposit the Bonds with DTC.

REGISTRAR

The City will name the registrar which shall be subject to applicable regulations of the Securities and Exchange Commission. The City will pay for the services of the registrar.

OPTIONAL REDEMPTION

The City may elect on February 1, 2026, and on any day thereafter, to redeem Bonds due on or after February 1, 2027. Redemption may be in whole or in part and if in part at the option of the City and in such manner as the City shall determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC of the particular amount of such maturity to be redeemed. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. All redemptions shall be at a price of par plus accrued interest.

SECURITY AND PURPOSE

The Bonds will be general obligations of the City for which the City will pledge its full faith and credit and power to levy direct general ad valorem taxes. In addition, the City will pledge special assessments against benefitted properties and net revenues of the City's water, storm, drainage, and sanitary sewer utility funds for repayment of a portion of the Bonds. The proceeds of the Bonds will be used to finance various street and utility improvements within the City.

BIDDING PARAMETERS

Proposals shall be for not less than $8,530,000 (Par) plus accrued interest, if any, on the total principal amount of the Bonds. No proposal can be withdrawn or amended after the time set for receiving proposals on the Sale Date unless the meeting of the City scheduled for award of the Bonds is adjourned, recessed, or continued to another date without award of the Bonds having been made. Rates shall be in integral multiples of 1/100 or 1/8 of 1%. The initial price to the public for each maturity as stated on the proposal must be 98.0% or greater. Bonds of the same maturity shall bear a single rate from the date of the Bonds to the date of maturity. No conditional proposals will be accepted.

ESTABLISHMENT OF ISSUE PRICE

In order to provide the City with information necessary for compliance with Section 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder (collectively, the "Code"), the Purchaser will be required to assist the City in establishing the issue price of the Bonds and shall complete, execute, and deliver to the City

prior to the closing date, a written certification in a form acceptable to the Purchaser, the City, and Bond Counsel (the "Issue Price Certificate") containing the following for each maturity of the Bonds (and, if different interest rates apply within a maturity, to each separate CUSIP number within that maturity): (i) the interest rate; (ii) the reasonably expected initial offering price to the "public" (as said term is defined in Treasury Regulation Section 1.148-1(f) (the "Regulation")) or the sale price; and (iii) pricing wires or equivalent communications supporting such offering or sale price. Any action to be taken or documentation to be received by the City pursuant hereto may be taken or received on behalf of the City by Springsted.

The City intends that the sale of the Bonds pursuant to this Terms of Proposal shall constitute a "competitive sale" as defined in the Regulation based on the following:

(i) the City shall cause this Terms of Proposal to be disseminated to potential bidders in a manner that is reasonably designed to reach potential bidders;
(ii) all bidders shall have an equal opportunity to submit a bid;
(iii) the City reasonably expects that it will receive bids from at least three bidders that have established industry reputations for underwriting municipal bonds such as the Bonds; and
(iv) the City anticipates awarding the sale of the Bonds to the bidder who provides a proposal with the lowest true interest cost, as set forth in this Terms of Proposal (See "AWARD" herein).

Any bid submitted pursuant to this Terms of Proposal shall be considered a firm offer for the purchase of the Bonds, as specified in the proposal. The Purchaser shall constitute an "underwriter" as said term is defined in the Regulation. By submitting its proposal, the Purchaser confirms that it shall require any agreement among underwriters, a selling group agreement, or other agreement to which it is a party relating to the initial sale of the Bonds, to include provisions requiring compliance with the provisions of the Code and the Regulation regarding the initial sale of the Bonds.

If all of the requirements of a "competitive sale" are not satisfied, the City shall advise the Purchaser of such fact prior to the time of award of the sale of the Bonds to the Purchaser. **In such event, any proposal submitted will not be subject to cancellation or withdrawal.** Within twenty-four (24) hours of the notice of award of the sale of the Bonds, the Purchaser shall advise the City and Springsted if a "substantial amount" (as defined in the Regulation) of any maturity of the Bonds (and, if different interest rates apply within a maturity, to each separate CUSIP number within that maturity) has been sold to the public and the price at which such substantial amount was sold. The City will treat such sale price as the "issue price" for such maturity, applied on a maturity-by-maturity basis. The City will not require the Purchaser to comply with that portion of the Regulation commonly described as the "hold-the-offering-price" requirement for the remaining maturities, but the Purchaser may elect such option. If the Purchaser exercises such option, the City will apply the initial offering price to the public provided in the proposal as the issue price for such maturities. If the Purchaser does not exercise that option, it shall thereafter promptly provide the City and Springsted the prices at which a substantial amount of such maturities are sold to the public; provided such determination shall be made and the City and Springsted notified of such prices whether or not the closing date has

occurred, until the 10% test has been satisfied as to each maturity of the Bonds or until all of the Bonds of a maturity have been sold.

GOOD FAITH DEPOSIT

To have its proposal considered for award, the Purchaser is required to submit a good faith deposit to the City in the amount of $85,300 (the "Deposit") no later than 1:00 P.M., Central Time on the Sale Date. The Deposit may be delivered as described herein in the form of either (i) a certified or cashier's check payable to the City; or (ii) a wire transfer. The Purchaser shall be solely responsible for the timely delivery of its Deposit whether by check or wire transfer. Neither the City nor Springsted have any liability for delays in the receipt of the Deposit. If the Deposit is not received by the specified time, the City may, at its sole discretion, reject the proposal of the lowest bidder, direct the second lowest bidder to submit a Deposit, and thereafter award the sale to such bidder.

Certified or Cashier's Check. A Deposit made by certified or cashier's check will be considered timely delivered to the City if it is made payable to the City and delivered to Springsted Incorporated, 380 Jackson Street, Suite 300, Saint Paul, Minnesota 55101 by the time specified above.

Wire Transfer. A Deposit made by wire will be considered timely delivered to the City upon submission of a federal wire reference number by the specified time. Wire transfer instructions will be available from Springsted following the receipt and tabulation of proposals. The successful bidder must send an e-mail including the following information: (i) the federal reference number and time released; (ii) the amount of the wire transfer; and (iii) the issue to which it applies.

Once an award has been made, the Deposit received from the Purchaser will be retained by the City and no interest will accrue to the Purchaser. The amount of the Deposit will be deducted at settlement from the purchase price. In the event the Purchaser fails to comply with the accepted proposal, said amount will be retained by the City.

AWARD

The Bonds will be awarded on the basis of the lowest interest rate to be determined on a true interest cost (TIC) basis calculated on the proposal prior to any adjustment made by the City. The City's computation of the interest rate of each proposal, in accordance with customary practice, will be controlling.

The City will reserve the right to: (i) waive non-substantive informalities of any proposal or of matters relating to the receipt of proposals and award of the Bonds, (ii) reject all proposals without cause, and (iii) reject any proposal that the City determines to have failed to comply with the terms herein.

BOND INSURANCE AT PURCHASER'S OPTION

The City has **not** applied for or pre-approved a commitment for any policy of municipal bond insurance with respect to the Bonds. If the Bonds qualify for municipal bond insurance and a bidder desires to purchase a policy, such indication, the maturities to be insured, and the name of the desired insurer must be set forth on the bidder's proposal. The City specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest TIC to the City. All costs associated with the issuance and administration of such policy and associated ratings and expenses (other than any independent rating requested by the City) shall be paid by the successful bidder. Failure of the municipal bond insurer to issue the policy after the award of the Bonds shall not constitute cause for failure or refusal by the successful bidder to accept delivery of the Bonds.

CUSIP NUMBERS

If the Bonds qualify for assignment of CUSIP numbers such numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto will constitute cause for failure or refusal by the Purchaser to accept delivery of the Bonds. The CUSIP Service Bureau charge for the assignment of CUSIP identification numbers shall be paid by the Purchaser.

SETTLEMENT

On or about July 10, 2018, the Bonds will be delivered without cost to the Purchaser through DTC in New York, New York. Delivery will be subject to receipt by the Purchaser of an approving legal opinion of Kennedy & Graven, Chartered of Minneapolis, Minnesota, and of customary closing papers, including a no-litigation certificate. On the date of settlement, payment for the Bonds shall be made in federal, or equivalent, funds that shall be received at the offices of the City or its designee not later than 12:00 Noon, Central Time. Unless compliance with the terms of payment for the Bonds has been made impossible by action of the City, or its agents, the Purchaser shall be liable to the City for any loss suffered by the City by reason of the Purchaser's non-compliance with said terms for payment.

CONTINUING DISCLOSURE

In accordance with SEC Rule 15c2-12(b)(5), the City will undertake, pursuant to the resolution awarding sale of the Bonds, to provide annual reports and notices of certain events. A description of this undertaking is set forth in the Official Statement. The Purchaser's obligation to purchase the Bonds will be conditioned upon receiving evidence of this undertaking at or prior to delivery of the Bonds.

OFFICIAL STATEMENT

The City has authorized the preparation of a Preliminary Official Statement containing pertinent information relative to the Bonds, and said Preliminary Official Statement has been deemed final by the City as of the date thereof within the meaning of Rule 15c2-12 of the Securities and

Exchange Commission. For copies of the Preliminary Official Statement or for any additional information prior to sale, any prospective purchaser is referred to the Municipal Advisor to the City, Springsted Incorporated, 380 Jackson Street, Suite 300, Saint Paul, Minnesota 55101, telephone (651) 223-3000.

A Final Official Statement (as that term is defined in Rule 15c2-12) will be prepared, specifying the maturity dates, principal amounts, and interest rates of the Bonds, together with any other information required by law. By awarding the Bonds to the Purchaser, the City agrees that, no more than seven business days after the date of such award, it shall provide without cost to the Purchaser up to 25 copies of the Final Official Statement. The City designates the Purchaser as its agent for purposes of distributing copies of the Final Official Statement to each syndicate member, if applicable. The Purchaser agrees that if its proposal is accepted by the City, (i) it shall accept designation and (ii) it shall enter into a contractual relationship with its syndicate members for purposes of assuring the receipt of the Final Official Statement by each such syndicate member.

Dated May 14, 2018

BY ORDER OF THE CITY COUNCIL

/s/ Sharon Knutson
City Clerk

$8,530,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

ISSUE SUMMARY

Total Issue Sources And Uses

Dated 07/10/2018 | Delivered 07/10/2018

	Street Improvement Portion	Storm Drainage Improvements	Water Improvements	Water Tower	Issue Summary
Sources Of Funds					
Par Amount of Bonds	$4,000,000.00	$1,465,000.00	$1,710,000.00	$1,355,000.00	$8,530,000.00
City Street Reconstruction Fund	920,826.61	-	-	-	920,826.61
Municipal State Aid	410,000.00	-	-	-	410,000.00
Reoffering Premium	165,589.25	58,141.85	67,700.05	53,236.40	344,667.55
City Cash	870.00	85,585.83	27,253.00	-	113,708.83
City Street Light Utility	73,781.25	-	-	-	73,781.25
CenterPoint Energy	19,378.00	-	-	-	19,378.00
Total Sources	**$5,590,445.11**	**$1,608,727.68**	**$1,804,953.05**	**$1,408,236.40**	**$10,412,362.24**
Uses Of Funds					
Deposit to Project Construction Fund	5,526,700.14	1,585,585.83	1,777,253.00	1,391,000.00	10,280,538.97
Costs of Issuance	31,291.64	15,212.07	17,756.07	4,670.22	68,930.00
Total Underwriter's Discount (0.700%)	28,000.00	10,255.00	11,970.00	9,485.00	59,710.00
Rounding Amount	4,453.33	(2,325.22)	(2,026.02)	3,081.18	3,183.27
Total Uses	**$5,590,445.11**	**$1,608,727.68**	**$1,804,953.05**	**$1,408,236.40**	**$10,412,362.24**
Total Project Costs	$5,526,700.14	$1,585,585.83	$1,777,253.00	$1,391,000.00	$10,280,538.97
Less: Non-bond sources of funds	1,424,855.86	85,585.83	27,253.00	-	1,537,694.69
Bond Proceeds to Fund Projects	$4,101,844.28	$1,500,000.00	$1,750,000.00	$1,391,000.00	$8,742,844.28

$8,530,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

ISSUE SUMMARY

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price		YTM	Call Date	Call Price	Dollar Price
02/01/2020	Serial Coupon	5.000%	2.200%	735,000.00	104.264%		-	-	-	766,340.40
02/01/2021	Serial Coupon	5.000%	2.350%	750,000.00	106.541%		-	-	-	799,057.50
02/01/2022	Serial Coupon	5.000%	2.450%	785,000.00	108.637%		-	-	-	852,800.45
02/01/2023	Serial Coupon	5.000%	2.550%	815,000.00	110.478%		-	-	-	900,395.70
02/01/2024	Serial Coupon	5.000%	2.650%	850,000.00	112.069%		-	-	-	952,586.50
02/01/2025	Serial Coupon	3.000%	2.750%	880,000.00	101.489%		-	-	-	893,103.20
02/01/2026	Serial Coupon	3.000%	2.850%	895,000.00	101.012%		-	-	-	904,057.40
02/01/2027	Serial Coupon	3.000%	2.950%	920,000.00	100.335%	c	2.955%	02/01/2026	100.000%	923,082.00
02/01/2028	Serial Coupon	3.000%	3.050%	940,000.00	99.586%		-	-	-	936,108.40
02/01/2029	Serial Coupon	3.000%	3.150%	960,000.00	98.660%		-	-	-	947,136.00
Total	-	-	-	$8,530,000.00	-	-	-	-	-	$8,874,667.55

Bid Information

Par Amount of Bonds	$8,530,000.00
Reoffering Premium or (Discount)	344,667.55
Gross Production	$8,874,667.55
Total Underwriter's Discount (0.700%)	$(59,710.00)
Bid (103.341%)	8,814,957.55
Total Purchase Price	$8,814,957.55
Bond Year Dollars	$53,827.58
Average Life	6.310 Years
Average Coupon	3.5312162%
Net Interest Cost (NIC)	3.0018267%
True Interest Cost (TIC)	2.9624807%

$8,530,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

ISSUE SUMMARY

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	City Cash	Net New D/S	105% of Total	Assessment	Levy Required	Utility Revenues (at 105%)	Net Levy Required
02/01/2019	-	-	186,818.33	186,818.33	186,818.33	-	-	-	-	-	-
02/01/2020	735,000.00	5.000%	334,600.00	1,069,600.00	-	1,069,600.00	1,123,080.00	290,489.85	832,590.15	573,930.00	258,660.15
02/01/2021	750,000.00	5.000%	297,850.00	1,047,850.00	-	1,047,850.00	1,100,242.50	272,250.83	827,991.67	570,255.00	257,736.67
02/01/2022	785,000.00	5.000%	260,350.00	1,045,350.00	-	1,045,350.00	1,097,617.50	264,243.45	833,374.05	571,042.50	262,331.55
02/01/2023	815,000.00	5.000%	221,100.00	1,036,100.00	-	1,036,100.00	1,087,905.00	256,236.07	831,668.93	570,780.00	260,888.93
02/01/2024	850,000.00	5.000%	180,350.00	1,030,350.00	-	1,030,350.00	1,081,867.50	248,228.69	833,638.81	574,717.50	258,921.31
02/01/2025	880,000.00	3.000%	137,850.00	1,017,850.00	-	1,017,850.00	1,068,742.50	240,221.31	828,521.19	572,092.50	256,428.69
02/01/2026	895,000.00	3.000%	111,450.00	1,006,450.00	-	1,006,450.00	1,056,772.50	232,213.93	824,558.57	567,787.50	256,771.07
02/01/2027	920,000.00	3.000%	84,600.00	1,004,600.00	-	1,004,600.00	1,054,830.00	224,206.57	830,623.43	573,667.50	256,955.93
02/01/2028	940,000.00	3.000%	57,000.00	997,000.00	-	997,000.00	1,046,850.00	216,199.18	830,650.82	573,667.50	256,983.32
02/01/2029	960,000.00	3.000%	28,800.00	988,800.00	-	988,800.00	1,038,240.00	208,191.80	830,048.20	573,195.00	256,853.20
Total	$8,530,000.00	-	$1,900,768.33	$10,430,768.33	$186,818.33	$10,430,768.33	$10,952,306.75	$2,452,481.68	$8,303,665.82	$5,721,135.00	$2,582,530.82

Dated	7/10/2018
Delivery Date	7/10/2018
First Coupon Date	2/01/2019

Yield Statistics

Bond Year Dollars	$53,827.58
Average Life	6.310 Years
Average Coupon	3.5312162%
Net Interest Cost (NIC)	3.0018267%
True Interest Cost (TIC)	2.9624807%
Bond Yield for Arbitrage Purposes	2.8401810%
All Inclusive Cost (AIC)	3.1050823%

IRS Form 8038

Net Interest Cost	2.8184918%
Weighted Average Maturity	6.221 Years

$4,000,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

Street Improvement Portion

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	City Cash	Net New D/S	105% of Total	Assessment	Levy Required
02/01/2019	-	-	88,216.67	88,216.67	88,216.67	-	-	-	-
02/01/2020	365,000.00	5.000%	158,000.00	523,000.00	-	523,000.00	549,150.00	290,489.85	258,660.15
02/01/2021	365,000.00	5.000%	139,750.00	504,750.00	-	504,750.00	529,987.50	272,250.83	257,736.67
02/01/2022	380,000.00	5.000%	121,500.00	501,500.00	-	501,500.00	526,575.00	264,243.45	262,331.55
02/01/2023	390,000.00	5.000%	102,500.00	492,500.00	-	492,500.00	517,125.00	256,236.07	260,888.93
02/01/2024	400,000.00	5.000%	83,000.00	483,000.00	-	483,000.00	507,150.00	248,228.69	258,921.31
02/01/2025	410,000.00	3.000%	63,000.00	473,000.00	-	473,000.00	496,650.00	240,221.31	256,428.69
02/01/2026	415,000.00	3.000%	50,700.00	465,700.00	-	465,700.00	488,985.00	232,213.93	256,771.07
02/01/2027	420,000.00	3.000%	38,250.00	458,250.00	-	458,250.00	481,162.50	224,206.57	256,955.93
02/01/2028	425,000.00	3.000%	25,650.00	450,650.00	-	450,650.00	473,182.50	216,199.18	256,983.32
02/01/2029	430,000.00	3.000%	12,900.00	442,900.00	-	442,900.00	465,045.00	208,191.80	256,853.20
Total	$4,000,000.00	-	$883,466.67	$4,883,466.67	$88,216.67	$4,795,250.00	$5,035,012.50	$2,452,481.68	$2,582,530.82

Dated	7/10/2018
Delivery Date	7/10/2018
First Coupon Date	2/01/2019

Yield Statistics

Bond Year Dollars	$24,878.33
Average Life	6.220 Years
Average Coupon	3.5511489%
Net Interest Cost (NIC)	2.9981004%
True Interest Cost (TIC)	2.9571082%
Bond Yield for Arbitrage Purposes	2.8401810%
All Inclusive Cost (AIC)	3.0969069%

IRS Form 8038

Net Interest Cost	2.8106614%
Weighted Average Maturity	6.131 Years

$2,001,844

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

Assessments

ASSESSMENT INCOME

Date	Principal	Coupon	Interest	Total P+I
12/31/2018	-	-	-	-
12/31/2019	200,184.43	4.000%	90,305.42	290,489.85
12/31/2020	200,184.43	4.000%	72,066.40	272,250.83
12/31/2021	200,184.43	4.000%	64,059.02	264,243.45
12/31/2022	200,184.43	4.000%	56,051.64	256,236.07
12/31/2023	200,184.43	4.000%	48,044.26	248,228.69
12/31/2024	200,184.43	4.000%	40,036.88	240,221.31
12/31/2025	200,184.43	4.000%	32,029.50	232,213.93
12/31/2026	200,184.43	4.000%	24,022.14	224,206.57
12/31/2027	200,184.42	4.000%	16,014.76	216,199.18
12/31/2028	200,184.42	4.000%	8,007.38	208,191.80
Total	$2,001,844.28	-	$450,637.40	$2,452,481.68

SIGNIFICANT DATES

Filing Date..... 11/15/2018
First Payment Date..... 12/31/2019

$1,465,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

Storm Drainage Improvements

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2019	-	-	31,908.75	31,908.75	33,504.19
02/01/2020	120,000.00	5.000%	57,150.00	177,150.00	186,007.50
02/01/2021	125,000.00	5.000%	51,150.00	176,150.00	184,957.50
02/01/2022	130,000.00	5.000%	44,900.00	174,900.00	183,645.00
02/01/2023	140,000.00	5.000%	38,400.00	178,400.00	187,320.00
02/01/2024	145,000.00	5.000%	31,400.00	176,400.00	185,220.00
02/01/2025	155,000.00	3.000%	24,150.00	179,150.00	188,107.50
02/01/2026	155,000.00	3.000%	19,500.00	174,500.00	183,225.00
02/01/2027	160,000.00	3.000%	14,850.00	174,850.00	183,592.50
02/01/2028	165,000.00	3.000%	10,050.00	175,050.00	183,802.50
02/01/2029	170,000.00	3.000%	5,100.00	175,100.00	183,855.00
Total	$1,465,000.00	-	$328,558.75	$1,793,558.75	$1,883,236.69

SIGNIFICANT DATES

Dated	7/10/2018
Delivery Date	7/10/2018
First Coupon Date	2/01/2019

Yield Statistics

Bond Year Dollars	$9,342.96
Average Life	6.377 Years
Average Coupon	3.5166458%
Net Interest Cost (NIC)	3.0041009%
True Interest Cost (TIC)	2.9659030%
Bond Yield for Arbitrage Purposes	2.8401810%
All Inclusive Cost (AIC)	3.1477003%

IRS Form 8038

Net Interest Cost	2.8236254%
Weighted Average Maturity	6.288 Years

Interest rates are estimates. Changes in rates may cause significant alterations to this schedule. The actual underwriter's discount bid may also vary.

$1,710,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

Water Improvements

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2019	-	-	37,240.83	37,240.83	39,102.87
02/01/2020	140,000.00	5.000%	66,700.00	206,700.00	217,035.00
02/01/2021	145,000.00	5.000%	59,700.00	204,700.00	214,935.00
02/01/2022	155,000.00	5.000%	52,450.00	207,450.00	217,822.50
02/01/2023	160,000.00	5.000%	44,700.00	204,700.00	214,935.00
02/01/2024	170,000.00	5.000%	36,700.00	206,700.00	217,035.00
02/01/2025	175,000.00	3.000%	28,200.00	203,200.00	213,360.00
02/01/2026	180,000.00	3.000%	22,950.00	202,950.00	213,097.50
02/01/2027	190,000.00	3.000%	17,550.00	207,550.00	217,927.50
02/01/2028	195,000.00	3.000%	11,850.00	206,850.00	217,192.50
02/01/2029	200,000.00	3.000%	6,000.00	206,000.00	216,300.00
Total	$1,710,000.00	-	$384,040.83	$2,094,040.83	$2,198,742.87

SIGNIFICANT DATES

Dated	7/10/2018
Delivery Date	7/10/2018
First Coupon Date	2/01/2019

Yield Statistics

Bond Year Dollars	$10,924.75
Average Life	6.389 Years
Average Coupon	3.5153283%
Net Interest Cost (NIC)	3.0052018%
True Interest Cost (TIC)	2.9672232%
Bond Yield for Arbitrage Purposes	2.8401810%
All Inclusive Cost (AIC)	3.1487615%

IRS Form 8038

Net Interest Cost	2.8253018%
Weighted Average Maturity	6.298 Years

Interest rates are estimates. Changes in rates may cause significant alterations to this schedule. The actual underwriter's discount bid may also vary.

$1,355,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

Water Tower

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2019	-	-	29,452.08	29,452.08	30,924.68
02/01/2020	110,000.00	5.000%	52,750.00	162,750.00	170,887.50
02/01/2021	115,000.00	5.000%	47,250.00	162,250.00	170,362.50
02/01/2022	120,000.00	5.000%	41,500.00	161,500.00	169,575.00
02/01/2023	125,000.00	5.000%	35,500.00	160,500.00	168,525.00
02/01/2024	135,000.00	5.000%	29,250.00	164,250.00	172,462.50
02/01/2025	140,000.00	3.000%	22,500.00	162,500.00	170,625.00
02/01/2026	145,000.00	3.000%	18,300.00	163,300.00	171,465.00
02/01/2027	150,000.00	3.000%	13,950.00	163,950.00	172,147.50
02/01/2028	155,000.00	3.000%	9,450.00	164,450.00	172,672.50
02/01/2029	160,000.00	3.000%	4,800.00	164,800.00	173,040.00
Total	$1,355,000.00	-	$304,702.08	$1,659,702.08	$1,742,687.18

SIGNIFICANT DATES

Dated	7/10/2018
Delivery Date	7/10/2018
First Coupon Date	2/01/2019

Yield Statistics

Bond Year Dollars	$8,681.54
Average Life	6.407 Years
Average Coupon	3.5097693%
Net Interest Cost (NIC)	3.0058104%
True Interest Cost (TIC)	2.9682708%
Bond Yield for Arbitrage Purposes	2.8401810%
All Inclusive Cost (AIC)	3.0281035%

IRS Form 8038

Net Interest Cost	2.8268759%
Weighted Average Maturity	6.317 Years

Interest rates are estimates. Changes in rates may cause significant alterations to this schedule. The actual underwriter's discount bid may also vary.

$8,530,000

City of Brooklyn Center, Minnesota

General Obligation Improvement and Utility Revenue Bonds, Series 2018A

ISSUE SUMMARY

Detail Costs Of Issuance

Dated 07/10/2018 | Delivered 07/10/2018

COSTS OF ISSUANCE DETAIL

MA Utility Portion	$22,025.00
MA Street Portion	$17,505.00
Bond Counsel	$12,750.00
Rating Agency Fee	$14,500.00
POS/Official Statement	$800.00
Registrar	$850.00
Miscellaneous	$500.00
TOTAL	**$68,930.00**

City Council Agenda Item No. 7a

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

FROM: Reggie Edwards, Deputy City Manager

SUBJECT: Resolution Expressing Recognition and Appreciation to the City Clerk, Sharon Knutson for 35 Years of Dedicated Service to the City of Brooklyn Center

Recommendation:
It is recommended that the city council consider adoption of the resolution expressing recognition and appreciation to the City Clerk, Sharon Knutson for 35 years of dedicated service to the City of Brooklyn Center

Background:
On Tuesday, July 5, 1983, the City of Brooklyn Center hired Sharon Knutson. During Sharon's 35-year tenure, she served in the capacity of Clerk II – Receptionist, Clerk IV – Administrative License Secretary, Administrative Assistant and Deputy City Clerk and for 22 years served as the City Clerk.

Over the past 35 years, Sharon has worked with City Managers, Jerry Splinter, Mike McCauley and Curt Boganey, and has attentively served Mayors, Dean Nyquist, Todd Paulson, Myrna Kragness, and Tim Willson.

She has been a 25-year member of the International Institute of Municipal Clerks and the Minnesota Clerks and Finance Officers Association attaining Master Municipal Clerk designation from both organizations.

Sharon Knutson has led the City in launching of its first City website and digitization of its City records and has functioned as the City's vanguard of statutory laws and requirements knowledge and compliance. She has been a staunch leader in flawlessly organizing, developing, officiating, and managing the City's election process for 29 elections, and served a Recount Official for the 2008 and 2010 election recounts.

Budget Issues:
There are no budget related issues.

Strategic Priorities:

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION EXPRESSING RECOGNITION AND APPRECIATION TO THE CITY CLERK SHARON KNUTSON FOR 35 YEARS OF DEDICATED SERVICE TO THE CITY OF BROOKLYN CENTER

WHEREAS, Sharon Knutson was hired in the Office of the City Clerk on Tuesday, July 5, 1983; and

WHEREAS, Sharon Knutson has served the City of Brooklyn Center in the capacity of Clerk II – Receptionist, Clerk IV – Administrative License Secretary, Administrative Assistant and Deputy City Clerk and for 22 years served as the City Clerk; and

WHEREAS, Sharon Knutson has diligently worked with City Managers Gerald Splinter, Michael McCauley and Curt Boganey, and has attentively served Mayors Dean Nyquist, Todd Paulson, Myrna Kragness, and Tim Willson over her 35 year tenure; and

WHEREAS, Sharon Knutson has been a 25 year member of the International Institute of Municipal Clerks and the Minnesota Clerks and Finance Officers Association attaining Master Municipal Clerk designation from both organizations; and

WHEREAS, Sharon Knutson led the City in launching its first City website and digitization of official City records; and

WHEREAS, Sharon Knutson has dutifully functioned with exceptional expertise as the City's vanguard of statutory laws and requirements; and

WHEREAS, Sharon Knutson has been a loyal leader in flawlessly organizing, developing, officiating, and managing the City's election process for 29 elections, and served a Recount Official for the 2008 and 2010 election recounts; and

WHEREAS, the City Council of the City of Brooklyn Center wishes to recognize Sharon Knutson for diligently, professionally, passionately and with integrity serving the City of Brooklyn Center for 35 years and for making a positive impact on the community of Brooklyn Center.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, upon the recommendation of the City Manager, that we recognize the honorable retirement of Sharon Knutson on July 5, 2018, and express sincere appreciation for her dedicated public service. We wish Sharon and her family the very best in the future.

RESOLUTION NO. _____

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

City Council Agenda Item No. 7b

COUNCIL ITEM MEMORANDUM

DATE: May 16, 2018

TO: Curt Boganey, City Manager

FROM: Jim Glasoe, Director of Community Activities, Recreation and Services

SUBJECT: Resolution Expressing Recognition and Appreciation of Rebecca Crass for Over 24 Years of Dedicated Service to the City Of Brooklyn Center

Recommendation:
It is recommended that the City Council consider approval/adoption of a resolution recognizing the dedicated public service of Rebecca Crass.

Background:
Rebecca Crass is retiring from her position of CARS Administrative Assistant, after more than twenty four years of service to the City. Rebecca began her employment with the City of Brooklyn Center on November 22, 1993 in the Community Development Department.

After more than 20 years there, Rebecca joined the Community Activities Recreation and Services Department as an Administrative Assistant on August 4, 2014 and will retire on June 1, 2018.

Rebecca's efforts provided for the efficient operation of the Community Activities, Recreation & Services office and for Community Development office prior to that. Rebecca's passion for process improvement and excellent customer service were hallmarks throughout her career.

It is highly fitting the City Council recognize Rebecca's years of service and her contributions to the City and to the community.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:

- Inclusive Community Engagement

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION EXPRESSING RECOGNITION AND APPRECIATION TO REBECCA CRASS FOR OVER 24 YEARS OF DEDICATED PUBLIC SERVICE TO THE CITY OF BROOKLYN CENTER

WHEREAS, Rebecca Crass was hired as an Administrative Assistant in the Community Development Department on November 22, 1993; and

WHEREAS, during the more than 20 years with Community Development, Rebecca provided superb administrative support to the staff and directly supported the department's mission; and

WHEREAS, Rebecca took the lead to make improvements and manage the rental license program and worked collaboratively with LOGIS to successfully streamline, design and implement code enforcement, administrative penalty program, diseased tree program, rental licenses, e-permits, vacant building registrations, and special assessments using PIMS software; and

WHEREAS, Rebecca was instrumental in working with the City Clerk to organize documents for record retention in Laserfiche scanning; and

WHEREAS, Rebecca provided consistent and dependable management in the daily operations of the office to provide positive and efficient customer service while maintaining in depth knowledge of permits, licenses, ordinances, building and zoning codes, assisting with Planning and Housing Commissions, and compiled data to submit payments and reports for other government agencies; and

WHEREAS, Rebecca achieved professional results by consistently performing tasks and assignments and successfully led projects to improve programs and processes; and

WHEREAS, Rebecca joined the Community Activities Recreation and Services Department as an Administrative Assistant on August 4, 2014; and

WHEREAS, Rebecca continued her process improvement approach at the Community Center, where she streamlined/improved numerous processes including facility rentals, record retention and assisted with the conversion to a new recreation registration/facility use software system; and

WHEREAS, the City Council of the City of Brooklyn Center wishes to recognize the dedication and professionalism Rebecca has displayed in discharging her duties and the positive impact she has made on the City and its citizens.

RESOLUTION NO. _____

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, upon the recommendation of the City Manager, that we recognize the retirement of Rebecca Crass on June 1, 2018 with more than 24 years of service and express sincere appreciation for her dedicated public service.

_____ _____

Date Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

City Council Agenda Item No. 7c

COUNCIL ITEM MEMORANDUM

DATE: May 8, 2018

TO: Curt Boganey, City Manager

FROM: Doran Cote, P.E., Director of Public Works

SUBJECT: Proclamation Declaring May 20-26, 2018, National Public Works Week in the City of Brooklyn Center

Recommendation:
It is recommended that the City Council consider adoption of a proclamation declaring May 20 through May 26, 2018, as National Public Works Week in Brooklyn Center.

Background:
National Public Works Week is a celebration of the tens of thousands of people in North America who provide and maintain the infrastructure and services collectively known as public works. Instituted as a public education campaign by the American Public Works Association (APWA) in 1960, the weeklong celebration calls attention to the importance of public works in community life. The week seeks to enhance the prestige of the professionals who serve the public good every day with quiet dedication. The theme for 2018 is "The Power of Public Works".

The Public Works Department employs 38 full-time and 20 seasonal employees in the five divisions of the department - engineering, street maintenance, park maintenance, public utilities and the central garage. All divisions work together as a team to provide high-quality service for people who visit, live or work in Brooklyn Center.

Many of the tasks like plowing streets, mowing parks, putting up signs, pumping water, maintaining large equipment and designing improvement projects are high profile. Many more tasks are completed almost unnoticeable except in their absence.

Many people do not realize that significant efforts of the department take place while everyone else is sleeping. It is not unusual for street or park employees to get called out in the middle of the night after a storm to clear fallen trees from the road, to plow or provide ice control during a winter storm, or utility employees to be called out to respond to a sewer backup or water main break. Our Public Works employees take great pride in their work.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Key Transportation Investments

PROCLAMATION

DECLARING MAY 20-26, 2018,
NATIONAL PUBLIC WORKS WEEK IN THE CITY OF BROOKLYN CENTER

WHEREAS, *Public Works services provided in our community are an integral part of our citizens' everyday lives; and*

WHEREAS, *The support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as engineering, water, wastewater, storm drainage, streets and highways, parks and central vehicle fleet maintenance; and*

WHEREAS, *The health, safety and comfort of this community greatly depend on these facilities and services; and*

WHEREAS, *The quality and effectiveness of these facilities including their planning, design, construction, operation and maintenance are vitally dependent upon the efforts and skill of Public Works personnel.*

NOW, THEREFORE, I, AS MAYOR OF THE CITY OF BROOKLYN CENTER, State of Minnesota, with the consent and support of the Brooklyn Center City Council, do hereby proclaim May 20-26, 2018, as "National Public Works Week" in the City of Brooklyn Center, and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which Public Works personnel make every day to our health, safety, comfort and quality of life.

May 14, 2018
Date

_____
Mayor

Council Members

_____

_____

_____

_____

ATTEST: _____
City Clerk

City Council Agenda Item No. 7d

COUNCIL ITEM MEMORANDUM

DATE: May 1, 2018

TO: Curt Boganey, City Manager

FROM: Tim Gannon, Chief of Police

SUBJECT: Observance of Police Week and Peace Officer Memorial Day

Recommendation:

It is recommended that the City Council consider approval/adoption of a Council Resolution, which observes May 15, 2018 as Peace Officers Memorial Day; and the week of May 13 through May 19, 2018 as Police Week.

Background:

Congress and the President of the United States has designated May 15 as Peace Officers Memorial Day, and the week in which it falls as Police Week. Observance of Police Week and Peace Officers Memorial Day will help recognize our Brooklyn Center Police Department and other law enforcement agencies, as well as officers who died or were disabled in the line of duty.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION RECOGNIZING MAY 13 THROUGH MAY 19, 2018 AS POLICE WEEK AND MAY 15, 2018, AS POLICE OFFICERS MEMORIAL DAY

WHEREAS, the Congress and President of the United States has designated May 15 as Peace Officers Memorial Day, and the week in which it falls as Police Week; and

WHEREAS, the members of the law enforcement agency of Brooklyn Center play an essential role in safeguarding the rights and freedoms of the citizens of Brooklyn Center; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our police department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence or disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and

WHEREAS, the police department of Brooklyn Center has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the citizens of Brooklyn Center and all patriotic, civil and educational organizations be called upon to observe the week of May 13 through 19, 2018, as Police Week with appropriate ceremonies in which all of our people may join in commemorating police officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

FURTHER, be it resolved that all citizens of Brooklyn Center be called upon to observe Tuesday, May 15, 2018 as Peace Officers Memorial Day in honor of those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

RESOLUTION NO. _____

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

City Council Agenda Item No. 8a

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Ginny McIntosh, City Planner/Zoning Administrator

SUBJECT: Item 8.a. - An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Zoning Classification of Certain Land Generally Located in the Southeast Section of the City, Generally Situated Between Highway 100 to the West and North, Logan Avenue North to the East, and 57th Avenue North to the South, and Locally Identified as 1950 57th Avenue North

Item 8.a.1 – Approval of a PUD Agreement between the City and Ebert Inc. D/B/A Ebert Construction

Recommendations:

Item 8.a- It is recommended that City Council make a Motion to approve the Second Reading of the Ordinance authorizing the amendment of Chapter 35 of the City Code of Ordinances regarding the zoning classification of certain land generally located in the southeast section of the City, generally located between Highway 100 to the west and north, Logan Avenue North to the east, and 57th Avenue North to the south, and locally identified as 1950 57th Avenue North. It is further recommended that City Council adopt the attached ordinance.

Item 8.a.1 – It is recommended that City Council make a Motion to approve a PUD agreement between the City and Ebert Inc. D/B/A Ebert Construction.

Background:

On March 15, 2018, the Planning Commission conducted a public hearing on Planning Commission Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, for approval of the Preliminary Plat for Northbrook Center 3rd Addition, which would subdivide an existing 7.32 acre lot into two lots. As proposed, the approximately 2.6 acres (proposed Lot 1) would be conveyed to the Applicant, Ebert Construction, and the remaining approximately 4.72 acres (proposed Lot 2) would remain under ownership of the City of Brooklyn Center until a developer could be identified at a later time. This request was associated with additional requests by the Applicant under Planning Commission Application No. 2018-001 to establish a new Planned Unit Development (PUD) and approve site and building plans for the proposed four-story, 112,000-square foot indoor commercial storage building.

The Planning Commission reviewed the aforementioned requests as part of the public hearing process and voted unanimously in favor (7-0) of the proposed subdivision (Preliminary Plat of Northbrook Center 3rd Addition). Following a review of the request to establish a Planned Unit

COUNCIL ITEM MEMORANDUM

Development and the submitted site and building plans, the Planning Commission voted 5-2 in favor of the proposed indoor commercial storage building.

On March 26, 2018, the City Council reviewed Application No. 2018-001. Following review of the Application and requests, City Council voted unanimously (5-0) in favor of the requests and approved City Council Resolution Nos. 2018-62 and 2018-63.

The approved request to establish a Planned Unit Development on an approximately 2.6 acre portion of the Subject Property requires that this portion be re-zoned from its currently designated C2 (Commerce) District to PUD-C2 (Planned Unit Development-Commerce) District. This is per Section 35-355 (*Planned Unit Development*) of the City Zoning Code and requires a public hearing notice, as this request requires an amendment to the Zoning Code. City Council reviewed the request for approval of a first reading, setting of a second reading, and public hearing for this request under Item 6g on the agenda of the City Council meeting on April 9th. The first reading was approved unanimously by City Council. A notice was published in the Brooklyn Center *Sun Post* on April 19, 2018.

As part of this amendment, the existing description of the Subject Property, identified under Section 35-1190 (*Commerce District*) as, "that area bounded by the following: Logan Avenue on the east; 57th Avenue on the south; State Highway No. 100 on the west and north," has been adjusted to provide clear identification as to which parcels are to remain zoned C2 (Commerce) District, and which parcel is to be re-zoned to PUD-C2 (Planned Unit Development-Commerce) District as part of this request. A copy of the draft ordinance is included for review.

The Planning Commission Report (dated March 15, 2018), which outlines the requests, and copies of City Council Resolution Nos. 2018-62 (Preliminary Plat for the Northbrook Center 3rd Addition) and No. 2018-63 (Establishment of a New Planned Unit Development and Site and Building Plan), are attached for the City Council's review.

Secondly, Item 8.a.1 requires that, as part of the conditions of approval, the City and Ebert Inc. D/B/A Ebert Construction ("Applicant") shall enter into a PUD agreement to be reviewed and approved by the City Attorney prior to issuance of building permits for the proposed four-story, 112,000-square foot indoor commercial storage building. This condition is outlined in the Planning Commission Report (dated March 15, 2018), Planning Commission Resolution No. 2018-002, and City Council Resolution No. 2018-62. A copy of the draft PUD agreement, which was prepared by the City Attorney, is attached to this memorandum.

Approval of the attached PUD Agreement is subject to minor revisions as determined by the Applicant and approval by the City Attorney.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Targeted Redevelopment

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2018, at 7:00 p.m. or as soon thereafter as the matter may be heard at City Hall, 6301 Shingle Creek Parkway, to consider an Ordinance amending Chapter 35 of the City Ordinances regarding the zoning classification of certain land, generally located in the southeast section of the City, generally situated between Highway 100 to the west and north, Logan Avenue North to the east, and 57th Avenue North to the south, and locally identified as 1950 57th Avenue North.

Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please notify the City Clerk at 763-569-3306 to make arrangements.

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE ZONING CLASSIFICATION OF CERTAIN LAND GENERALLY LOCATED IN THE SOUTHEAST SECTION OF THE CITY, GENERALLY SITUATED BETWEEN HIGHWAY 100 TO THE WEST AND NORTH, LOGAN AVENUE NORTH TO THE EAST, AND 57TH AVENUE NORTH TO THE SOUTH, AND LOCALLY IDENTIFIED AS 1950 57TH AVENUE NORTH

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 35 of the City Ordinances of the City of Brooklyn Center is hereby amended in the following manner:

Section 35-1190. COMMERCE DISTRICT (C2). The following properties are hereby established as being within the (C2) Commerce District zoning classification:

~~That area bounded by the following: Logan Avenue on the east; 57th Avenue on the south; State Highway No. 100 on the west and north.~~

Outlot A, Northbrook Center 2nd Addition.

Lot 2, Block 1, Northbrook Center 3rd Addition.

Section 35-1240. PLANNED UNIT DEVELOPMENT DISTRICT (PUD). The following properties are hereby established as being within a (PUD) Planned Unit Development District Zoning Classification:

4. The following properties are designated as PUD/C2 (Planned Unit Development/Commerce):

Lot 1, Block 1, Northbrook Center 3rd Addition.

Section 2. This ordinance shall become effective after adoption, recording of the final plat of Northbrook Center 3rd Addition with the Hennepin County Recorder or Registrar, and upon thirty days following this ordinance's legal publication.

Adopted this _____ day of _____, 2018.

_____
Mayor

ATTEST:_____
City Clerk

Date of Publication _____

Effective Date _____

(Note: (~~Strikeout~~ text indicates matter to be deleted, while underline indicates new matter.

Planning Commission Report

Meeting Date: March 15, 2018

- Application Filed: 02/13/2018
- Review Period (60-day) Deadline: 04/14/2018
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No.	2018-001
Applicant:	Greg Hayes (Ebert Construction)
Location:	1950 57th Avenue North
Request:	**(1)** Preliminary Plat of the Northbrook Center 3rd Addition **(2)** Establishment of a Planned Unit Development **(3)** Site and Building Plan Approval for Construction of a Four Story, 112,000-Square Foot Indoor Commercial Storage Building

INTRODUCTION

Greg Hayes of Ebert Construction (the "Applicant") is requesting review and consideration of a Preliminary Plat of the Northbrook Center 3rd Addition, which would subdivide an existing 7.32-acre lot into two (2) lots. This request is associated with additional requests by the Applicant to establish a Planned Unit Development (PUD) on approximately 2.6-acres (Lot 1) and approve a site and building plan for the proposed four story, 112,000-square foot indoor commercial storage building. The remaining approximately 4.72 acres (Lot 2) would remain under the ownership by the City of Brooklyn Center (Exhibit A).

Although the building and site plan do not require a public hearing, the request for approval of the preliminary plat and establishment of a Planned Unit Development require that a public hearing be scheduled in accordance with Section 35-355 (*Planned Unit Developments*) of the Brooklyn Center Zoning Ordinance, and Section 15-104 (*Preliminary Plan*) of the Platting Ordinance. An Affidavit of Publication confirmed publication of the public hearing notice in the Brooklyn Center *Sun Post* on March 1, 2018 (Exhibit B). Mail notices were also sent to neighboring property owners.

COMPREHENSIVE PLAN AND ZONING STANDARDS

Land Use Plan:	TH/MF/OS/RB/PS- Mixed (Townhome, Multi-Family, Office/Service Business, Retail Business, Public and Semi-Public)
Neighborhood:	Grandview
Current Zoning:	C2 (Commerce) District
Surrounding Zoning:	North: C2 (Commerce) District East: R3 and R4 (Multiple Family Residence) Districts South: PUD/C2 (Planned Unit Development/Commerce) and C2 (Commerce) Districts West: Highway 100 and C2 (Commerce) District across Highway 100

Site Area: Approximately 7.32 acres, to be subdivided into:
Lot 1 (Ebert Construction) –approximately 2.6 acres
Lot 2 (City of Brooklyn Center) –approximately 4.72 acres

BACKGROUND

Subject Property History

The Subject Property was formerly home to Northbrook Center and later on, what was known as the Hmong-American Shopping Center. The Subject Property was at one time comprised of five buildings (approximately 77,000-square feet of commercial space), 421 parking spaces, and was almost entirely covered in impervious surfaces. At different points throughout the shopping complex's history, the site was home to such establishments as the Chuckwagon Inn (restaurant), an Asian Grocery Store, fabric store, a hardware store with post office inside, pharmacy, and gas station.



Image 1. Northbrook Center in 1967
(Courtesy of Minnesota Historical Aerial Photographs Online)

In 2004, the City's Economic Development Authority adopted EDA Resolution Nos. 2004-10 (*Resolution Authorizing the Acquisition of Real Property for Redevelopment Purposes*), and 2004-12 (*Resolution Authorizing the Acquisition of Real Property for Redevelopment Purposes (Hmong American Shopping Center)*), to acquire the entirety of what is known as the 57th and Logan site. This acquisition surrounded concerns relating to the state of and overall dilapidation of the shopping center and conversations held with the principal owner of the majority of properties located on the site at that time as to its redevelopment.

The EDA proceeded by filing a Petition in Condemnation and Motion for Transfer of Title and Possessions under Minnesota Statute § 117.042 with the Hennepin County District Court. A 90-Day

Notice to Vacate and relocation expenses were provided to tenants renting space within the shopping center.

Site Contamination and EDA Acquisition

Outlot A (5801 Logan Avenue North), located to the north of the Subject Property, is presently the location of Minnesota Pollution Control Agency (MPCA) monitoring wells in place for the ongoing groundwater and vapor investigation of contamination caused by a former dry cleaning operation.

In 2003 and 2004, Phase I and II environmental investigations were completed on and around the Subject Property through funding received from Hennepin County and the Federal Environmental Protection Agency (EPA). The results of the Phase II investigation identified chemicals relating to dry cleaning operations in the soil and groundwater near the former dry cleaners on the 57th and Logan site.

In 2005, an additional assessment to the site was conducted and involved the collection of soil borings and a well receptor survey of 50 nearby properties. This was completed to further assess and delineate any potential plume of contaminants originating from the former dry cleaning facility on the northern portion of the 57th and Logan site. This study included an additional assessment as to any potential contaminant plume down gradient from the site in the residential neighborhood southeast of the site, and focused on private wells in the area.

Following the removal of asbestos from the shopping center, demolition of the shopping center complex occurred in 2005. It was during this time frame that a tank was discovered in the floor of the former dry cleaner site. This tank was used as a repository or collection point for dry cleaning chemicals used as part of the operation. As part of the site's cleanup, the dry cleaning tank was removed from the site and, as mentioned, monitoring wells were installed on Outlot A (located to the north of the Subject Property) to provide ongoing monitoring as to any remaining contamination.

The Applicant has been working with MPCA as to their requirements, and has been in consultation with Bay West to conduct vapor gas testing. This testing will help identify what type of under slab ventilation system will be required. The Applicant indicated they would enter into the MPCA's *Voluntary Investigation and Cleanup* (VIC) program.

EDA Sale of Subject Property

On August 14, 2017, the City Council/EDA Work Session included a discussion relating to a proposed Letter of Intent with Ebert Construction for commercial development on the northern half of Lot 1, Block 1 of the Northbrook Center 2nd Addition (1950 57th Avenue North) for a four story, 112,000-square foot indoor commercial storage building. Deliberation was held as to whether the as proposed development plan was compatible with the Economic Development Authority's Targeted Development Strategy for the 57th and Logan site, and whether they wished to proceed with a Letter of Intent and Purchase Agreement for the conveyance of a portion of said property. Given a favorable response from the City's Economic Development Authority (EDA), the EDA subsequently adopted Resolution 2017-11 (*Resolution Approving and Authorizing the Execution of a Letter of Intent to Sell the Property Located at 1950 57th Avenue North*).

Approval of the aforementioned EDA Resolution was followed by adoption of EDA Resolution No. 2017-19 (*Resolution Approving Purchase Agreement and Conveyance of Approximately 2.5 Acre Portion of Lot 1, Block 1, Northbrook Center 2nd Addition*) on November 13, 2017, which authorized the sale of a portion of the 57th and Logan site.

PRELIMINARY PLAT

As part of the City Platting Ordinance requirements, preliminary and final plat approval is required to formally subdivide Lot 1, Block 1, of the Northbrook Center 2nd Addition, also known as 1950 57th Avenue North. As proposed, the subdivision would result in the creation of:

Lot 1, Block 1, Northbrook Center 3rd Addition
(Ebert Construction) –approximately 2.6 acres
Lot 2, Block 1, Northbrook Center 3rd Addition
(City of Brooklyn Center) –approximately 4.72 acres



Map 1. Existing Lot Configuration of Subject Property.



Map 2. Preliminary Plat for Subject Property (Northbrook Center 3rd Addition)

The proposed subdivision would provide the acreage necessary for the Applicant to construct the proposed 112,000-square foot indoor commercial storage building on a 28,000-square foot building footprint on Lot 1 of the proposed Northbrook Center 3rd Addition. Access to the Subject Property would be via driveway that would largely line up with 58th Avenue North. Lot 1 and Lot 2 would be separated by an approximately 75-foot wide drainage and utility easement for Northern States Power Company (Doc. No. 498916). Lot 2 would continue ownership under the City of Brooklyn Center until a developer was identified. As Lot 2 is approximately 4.72 acres in size, there is the possibility of further subdividing Lot 2 in the future.

Per comments outlined in a review of the preliminary plat by Hennepin County (Exhibit C), the County expressed support of the proposed access to the Subject Property off Logan Avenue, however, the County discouraged the introduction of any future access points off 57th Avenue North, as the section of 57th Avenue North located to the south of the Subject Property is above the County's critical crash rate. This request to restrict access to Logan Avenue was echoed by MnDOT in their review (Exhibit E). The County indicated that any future development of proposed Lot 2 (City of Brooklyn Center) utilize an internal access road that would provide ingress and egress via Logan Avenue North.

In addition, the County indicated a desire to have 20 feet of the southern half of proposed Lot 2 (City of Brooklyn Center) dedicated as sidewalk, trail, utility, and roadway easement. This request is associated with potential future roadway improvements along 57th Avenue North. As the Staff Report is focused on the development of proposed Lot 1, consideration of Hennepin County requests regarding Lot 2 would be reserved for a future date.

Based on staff findings, staff recommends Planning Commission recommendation of the preliminary/final plat (Northbrook Center 3rd Addition); subject to the Applicant complying with the comments outlined in the Assistant City Engineer's memorandum dated March 6, 2018 (Exhibit D), MnDOT review dated March 14, 2018 (Exhibit E), and comments relating specifically to Lot 1 in the Hennepin County review dated March 7, 2018 (Exhibit C).

ESTABLISHMENT OF A NEW PLANNED UNIT DEVELOPMENT

The Applicant has proposed construction of an indoor commercial storage facility on the northern portion of the property known as 1950 57th Avenue North (Subject Property). As part of the proposal, the Applicant is requesting the establishment of a new Planned Unit Development (PUD) to allow flexibility in defining the proposed use and minimum parking requirements for this proposed use. As self-storage units have evolved over the past few years from the typical outdoor storage unit, to indoor, climate controlled mini units with keycard access and office staff, the City's Zoning Ordinance does not currently identify this type of use in the City Ordinance. Given this lack of defined use, the minimum required parking standards are also not outlined in the Zoning Ordinance.

Per Section 35-355 (*Planned Unit Development*) of the City Zoning Ordinance, the purpose of the Planned Unit Development (PUD) district is to, "promote flexibility in land development and redevelopment, preserve aesthetically significant and environmentally sensitive site features, conserve energy, and ensure a high quality of design."

The section further explains that,
"Parking provided for uses within a PUD shall be consistent with the parking requirements contained in Section 35-704 of this ordinance unless the developer can demonstrate to the City's satisfaction that a lesser standard should be permitted on the grounds of complementarity of peak parking demands by

the uses within the PUD."

Approval of a PUD requires that the proposed uses are consistent with the City's Comprehensive Plan and that implementation of said PUD be controlled by the submitted development plan. Applicants may combine PUD development plan approval with the site and building plan approval required by Section 35-230 (*Plan Approval*) of the City Zoning Ordinance by submitting all information required for both simultaneously. The Applicant has submitted sufficient documentation and plans to work through the requests for establishment of a PUD and building and site plan approval simultaneously and as outlined within this staff report. Should the Subject Property receive approval to establish the new PUD, the Subject Property would require re-zoning to identify the establishment of said PUD. Regulations governing uses and structures in PUDs shall be the same as those governing the underlying zoning district with the exception of certain permitted conditions or allowances as imposed or approved by the City Council.

In accordance with Section 35-355, the City Council shall base its actions on the PUD rezoning using the following criteria:

1. **Compatibility of the plan with the standards, purposes and intent of this section.**
2. **Consistency of the plan with the goals and policies of the Comprehensive Plan.**
3. **The impact of the plan on the neighborhood on which it is to be located.**
4. **The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, and buffering and landscaping.**

As noted by the Applicant, the proposed indoor commercial storage building would typically have office hours from 9 a.m. until 6 p.m., Monday through Friday, and on Saturdays from 10 a.m. to 4 p.m. Customers with rental units would have access to the building through card access seven days per week from the hours of 6 a.m. until 10 p.m.

Approval of the site and building plan is contingent upon receiving approval to establish a Planned Unit Development and its subsequent re-zoning.

SITE AND BUILDING PLAN APPROVAL

In conjunction with the Applicant's request for preliminary plat approval of the Northbrook Center 3rd Addition and establishment of a new Planned Unit Development (PUD), which would provide flexibility in defining the proposed use and minimum parking requirements, the Applicant is also requesting approval of the proposed site and building plan for the as proposed indoor commercial storage building.

Building Setbacks

The minimum building setback requirements within the C2 (Commerce) Zoning District are as follows:

Front: 35 feet **Rear Yard:** 40 feet **Side Interior Yard:** 10 feet

The indoor commercial storage building setbacks are proposed at:

Front: 66.7 feet -- *facing Logan Avenue* **Rear Yard:** 61.6 feet **Side Interior Yard (South):** 45 feet

As outlined above, the proposed indoor commercial storage building would meet all of the minimum building setback requirements for properties zoned C2 (Commerce) District).

Building and Site Layout

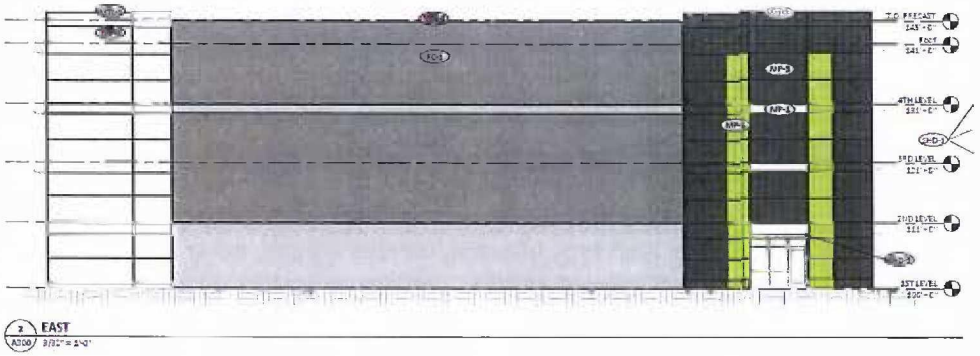
The proposed 112,000-square foot indoor commercial storage building would be located on a 28,000-square foot building footprint and rise four stories in height (Exhibit F). As proposed, the northeast corner of the building's main floor would feature an 816-square foot office area (open to the public), break room, utility room, and restroom facilities. Stairwells are indicated at the northeast and southwest corners of the building with an elevator shaft running through the center portion of the proposed building. As noted below, the breakdown of proposed overhead access doors to direct access storage units and the transfer bay are as follows:

North Elevation: Four (4) overhead doors
East Elevation: No overhead doors—facing Logan Avenue North and residential area
South Elevation: Ten (10) overhead doors—facing 57th Avenue North and commercial properties
West Elevation: Six (6) overhead doors—facing Highway 100

Two of the four doors located along the north elevation would be utilized by customers for access to the elevator and rental storage units via the approximately 1,600-square foot transfer bay area, and the other two doors for access to private storage units, whereas the ten doors on the south elevation and six doors on the west elevation would all serve as direct access doors to rental storage units.

As proposed, there would be 784 total storage units with the majority allocated for the following storage unit sizes: 5-foot by 10-foot (199 units), 10-foot by 10-foot (154 units), and 10-foot by 15-foot (133 units). With the exception of the main floor, floors two through four would be comprised solely of storage units, hallways, and elevator and stairway access points.





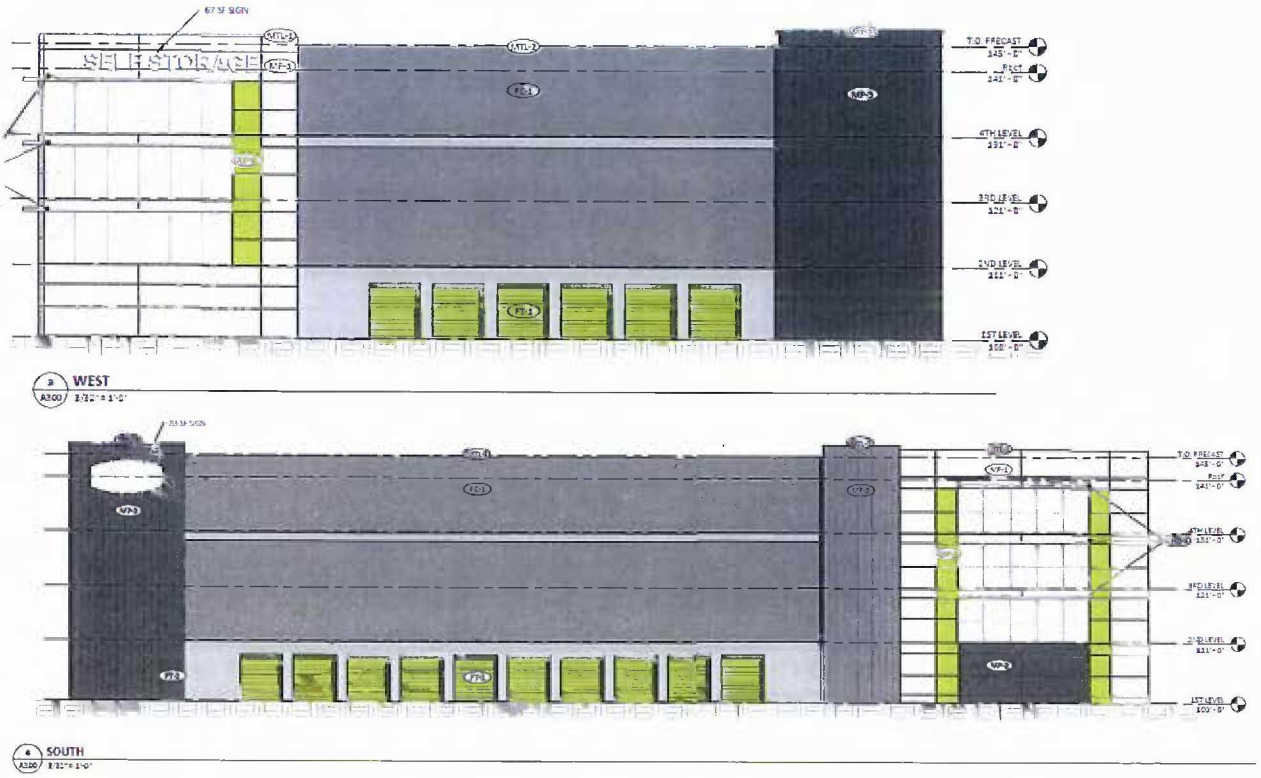


Image 1. *Proposed Indoor Commercial Storage Building Elevations*

As noted above in Image 1 and the attached Exhibit G, the Applicant intends to use a mixture of Class I type exterior building materials in the construction of the proposed indoor commercial storage building. These materials include the use of textured architectural pre-cast concrete panels, architectural metal (ACM) panels, and insulated glass. Horizontal metal sun shades would be installed over a thermally broken storefront system, and the transfer bay area would utilize glass on the oversized, overhead doors located on the north end of the building. Given their size, this should lessen the effects the door size might otherwise have were the doors to be of solid color. There are no plans to build on adjacent Outlot A, and monitoring wells are currently in place to track for contamination initially identified in the 2000s. The remaining smaller, direct access overhead doors would feature a cohesive paint color on the door panels.

Although unofficial, the City does reference a set of design guidelines when reviewing site and building plan applications. These guidelines are based on the *Shingle Creek Crossing Architectural Design* Guidelines, which were approved in 2011. These guidelines strive to have *at least* 50-percent of all four sides (wall surfaces) on new buildings constructed with Class I materials, with the remaining surfaces to be constructed of Class II materials. While these are guidelines, it is stressed that the Applicant be thoughtful in the design of the building and site. As reference:

Class I materials include: brick or acceptable brick-type material, marble; granite; other natural stone or acceptable natural looking stone; textured cement stucco; copper; porcelain, glass; architectural textured concrete pre-cast panels; and other materials including masonry units with enhanced detailing such as patterns, textures, color, dimension, banding, and brick inlay, as approved by the City Planning Commission and City Council.

Class II materials include: exposed aggregate concrete panels; burnished concrete block; integral colored split face (rock face) and exposed aggregate concrete block; cast-in-place concrete; artificial stucco (e.g., E.I.F.S., Drivit); artificial stone; fiber-reinforced cement board siding with a minimum thickness of ¼ inch; canvas or vinyl awnings; prefinished metal; and other materials not listed elsewhere, as approved by the City Planning Commission and City Council.

Access and Parking

The Applicant intends to provide site access via a 24-foot wide driveway at the intersection of Logan Avenue North and 58th Avenue North. The proposed drive would wind from the north end of the building to the west before terminating at the south end of the building. No drive aisle is proposed along the east side of the building, and therefore, no overhead doors are proposed for installation along the east elevation. The elimination of the drive access along this elevation is intended to minimize the commercial feel on this side, which faces Logan Avenue and a line of residential housing.

As the proposed use and minimum parking standard is not specified in the City Zoning Ordinance, the Applicant provided the locations of other like indoor commercial storage building projects in the Twin Cities metro. Staff researched these locations by referencing their respective City approvals and reviewing aerial imagery when necessary to identify the total square footage of each commercial storage building and their parking allowances. This information is summarized in Table 1 below.

Table 1. Parking Requirements for Similar Indoor Commercial Storage Buildings in Twin Cities Metro.

Indoor Commercial Storage Building Location	Provided Parking Spaces (in bold)	Square Feet	Parking Required per 1,000 SF
8570 Aspen Lane North—Brooklyn Park	**8**—Per Brooklyn Park Staff Report dated 09/13/2017	105,444 SF	0.076
1315 Cope Avenue North—Maplewood	**6**—Per Maplewood Staff Report dated 10/19/2016	108,150 SF	0.055
2960 Empire Lane—Plymouth	**11**—Per Google Maps	76,430 SF	0.144
12995 Valley View Road—Eden Prairie	**13**—Per example reference in Minnetonka Staff Report dated October 20, 2016	75,000 SF	0.173
6250 Olson Memorial Highway—Golden Valley	**10**—Per Google Maps	~85,000 SF*	0.118
4370 Fountain Hills Drive NE—Prior Lake	**12**—Per reference in Prior Lake Staff Report dated March 6, 2017	95,000 SF	0.126
MN ADA Parking Requirement (1 to 25 spaces)	**1 space required**	--	
Average (Above Locations)	**10 spaces** (90,837 SF x 0.115 ÷ 1,000)	**90,837 SF**	**0.115**

Sources: Greg Hayes (Ebert Construction), 2015 Minnesota Accessibility Code, reviews of aerial imagery and municipal staff reports (above).
*Note: Total square footage of Golden Valley commercial storage building (Lock Up Storage) based on square footage and similar parking allocations provided for Lock Up location in Plymouth.

Based on the calculations noted in Table 1 above, the average number of parking spaces provided across the six provided Twin Cities commercial storage locations is 10 for an average 90,837-square foot building. This is assuming a parking requirement of 0.115 spaces per 1,000–square feet of building. Under this assumption, it can be presumed that the as proposed 112,000-square foot building would require a minimum of approximately 13 parking spaces. The submitted site plan identifies 12 parking spaces, including one ADA accessible space with adjacent loading zone.

Given the provided 1,600-square foot internal loading and unloading area within the transfer bay, staff is comfortable with the as proposed 12 parking spaces. Should parking deficiencies be identified at a later time, the Applicant may need to alter the site plan to incorporate additional parking.

Parking spaces must be constructed per City Zoning Code minimum width (8 feet, 8 inches) and length (18 feet) requirements for 90-degree parking. The Applicant identified a typical space width of 9 feet and 20 feet in length on the submitted site plan. The Applicant also intends to maintain the minimum required 24-foot drive aisle throughout the parking area.

The Applicant shall work with the Fire Inspector to ensure the site plan meets 2015 Minnesota Fire Code provisions, including, but not limited to: maximum distance from fire hydrants, maximum drive aisle length without turn around (150 feet), direct emergency access to riser/utility room (as site plan specifies building will be fully-sprinkled), any required FDC connection, and turn radius requirements for fire trucks.

Per Hennepin County and MnDOT, no additional access points should be located off 57th Avenue North. Instead, future development on Lot 2 (City of Brooklyn Center) should utilize an internal access road that would provide access off Logan Avenue. With this in mind, the Applicant revised their site plan to offer additional green stripping along the southern edge of Lot 1 should an access road ever be constructed in the future. The Applicant otherwise substantially meets the minimum 15-foot green strip requirement along the street right-of-way (Logan Avenue).

LIGHTING | TRASH | SCREENING

Lighting

Per the City Zoning Code, "any new or additional lighting installed to illuminate the storage area must be down-cast, cut-off style light fixtures." The submitted photometric plan notes that all proposed luminaires will be fully shielded and of the cutoff type. The Applicant has also indicated that the proposed lighting would meet the requirements of Section 35-712 (*Lighting*) of the City Zoning Code by not exceeding three (3) foot candles measured at property lines abutting residentially zoned property, or 10 foot candles measured at the property lines abutting the street right-of-way or non-residentially zoned properties. As is specified, no glare shall emanate from or be visible beyond the boundaries of the illuminated premises.

The photometric plan notes that the maximum number of foot candles for any light poles or wall-pack fixtures would be not more than 3.8 foot candles and located towards the interior of the Subject Property. The identified foot candles along the perimeters of the property are identified as zero (0) foot candles. This includes the east side of the property that faces residential housing along Logan Avenue North. The average estimated foot candles throughout the site are 0.4.

Per the submitted photometric plan, one light pole fixture is proposed for installation to the north of the parking area and at a height of 20 feet, while seven (7) wall-mounted luminaires would be mounted at select locations along the north, west, and south elevations of the building. No lighting is proposed along the east elevation of the building. Both styles of fixtures are LED with cut-offs, and offer zero uplighting.

Trash

The site would feature an approximately 12-foot by 12-foot trash enclosure, which would be located approximately 30 feet off the north interior property line and to the east of the parking area. The City

has normally viewed these areas as "accessory structures," which are permitted with a minimum required setback of three (3) feet from side and rear lot lines. Trash enclosures are to be fully enclosed through use of fence or masonry type materials and effectively screen any dumpsters or recycling containers within.

Screening

The trash enclosure and any other ground mounted equipment (e.g., transformers, mechanical) shall be effectively screened from adjacent public rights-of-way and properties by a solid wall or fence constructed of wood, masonry, or other durable materials that are complementary to the materials used on the primary building. Per Chapter 12 (*Building Maintenance and Occupancy*) of the City Code, roof-mounted equipment shall also be screened from view through use of parapets, wall/fencing materials, or paint to match surrounding colors when visible from the public right-of-way.

Landscaping

The project submittal includes a detailed landscape plan, which illustrates the proposed planting schedule (i.e., trees, shrubs, annuals/perennials, mature size, planting size, root conditions). Although City Code does not have any specific requirements on landscaping, the City has operated under and held new and redeveloped areas to complying with the City's adopted Landscape Point System policy, which assigns points to a given site based on the acreage of a development. The point system requires commercial sites to provide a specific amount or number of landscaping units, and is based on the maximum percentage of certain materials (i.e., 50% shade trees; 40% coniferous trees; 35% decorative trees; and 25% shrubs).

Given that the proposed use isn't clearly identified within the Zoning Ordinance, staff has determined that a use of "light industrial" be used for the purposes of the Landscape Point System Policy, as the site will not operate as a retail use (i.e., "Restaurant/Retail/Service/Entertainment/Hotels") and as it does not identify as an "Office," or "Heavy Industrial" type of development. Assuming a 2.6 acre site, the Applicant would need to achieve a minimum of 60 points.

Table 2. Landscape Point System Policy

Planting Type	Minimum Size	Points Per Planting	Maximum Points (%)	Points Accrued
Shade Trees	2 ½" diameter	10	50% or 30 points	**30** (8 trees x 10 = 80)
Coniferous Trees	5' height	6	40% or 24 points	**24** (9 trees x 6 = 54)
Decorative Trees	1" diameter	1.5	35% or 21 points	**12** (8 trees x 1.5 = 12)
Shrubs	12" diameter	0.5	25% or 15 points	**14.5** 29 shrubs x 0.5 = 26.5)
Total			100% or 60 points	**80.5 points**

As summarized in Table 2 above, the submitted landscape plan is meets and exceeds all of the requirements of the Landscape Point System Policy. As part of the landscaping, daylilies will be provided for foundational plantings, while the main drive into the site will be lined with crab apple trees. White swamp oak and maple trees would line the eastern perimeter of the site facing the residential properties along Logan Avenue North, and Swiss stone pines would congregate towards the southwestern portion of the property (along Highway 100). To provide additional texture and interest, the Applicant intends to plant ornamental grasses, spirea, and dogwood shrubs along the west and

south elevations of the building. The dogwood shrubs will provide even more interest as they are known for their display of red bark through winter and early spring.

As part of any approval, the Applicant will need to install an irrigation system and provide shop drawings of the proposed irrigation system for City review.

ASSISTANT CITY ENGINEER REVIEW

Assistant City Engineer Andrew Hogg conducted a review of the application submittal and documents. Comments regarding this application can be found in the memorandum to city staff and dated March 6, 2018, attached hereto (Exhibit D). It should be noted that some of the outlined conditions may be applicable at time of approval for future land disturbance or building permits.

The installation of all utility services and lines, and the finished grading of the Subject Property are to be reviewed and conducted under issuance of a separate Land Disturbance (Alteration) permit, which is reviewed and approved by City engineers, and inspected for completeness by City engineers and building officials. In addition, an MPCA NPDES permit and a review by the West Mississippi Watershed Commission are required. The Applicant must also meet the requirements as outlined in reviews and commentary provided by Hennepin County, MNDOT (Exhibits C and E), and West Mississippi Watershed Commission. If drainage is directed to a MnDOT right-of-way, a drainage permit will be required.

As reference, the Applicant, as part of their review, provided a copy of their completed site Stormwater Report (Exhibit H). Per Exhibit D, it is specified that stormwater be *filtrated* in the BMPs and discharged to the storm sewer, rather than allowing infiltration in cases where sites contain contaminated soils or groundwater. The Applicant shall continue to work with the Minnesota Pollution Control Agency (MPCA) and any requirements they may have.

Unless otherwise approved by the City Engineer, the perimeters of all driving and parking areas shall be bounded by type B6-12 curb and gutter.

FIRE INSPECTOR REVIEW

The Applicant shall work to ensure all 2015 Minnesota Fire Code requirements have been met as part of any building and site plan approval. Per the submitted site plans, the proposed storage building is to be fully-sprinkled. As such, the Fire Department will need emergency access to the proposed riser/utility room. Additional requirements include, but are not limited to: providing sufficient fire hydrants per maximum distance requirements, installation of a Knox-Box, any required FDC connections, and compliance with maximum drive aisle lengths for fire trucks.

SIGNAGE

Although wall signage is identified in the submitted architectural renderings, no formal requests for approval were made as part of the application submittal. Any new signage, including wall and monument signs, would require conformance with Chapter 34 of the City Code (*Sign Ordinance*). Any requests beyond the allowances identified in the Sign Ordinance would require that the Applicant apply for and receive approval to deviate from the Sign Ordinance. The Applicant will need to file a separate Building Permit application for any proposed signage.

Based on staff findings, staff recommends Planning Commission recommendation of the requested establishment of a Planned Unit Development and approval of site and building plans; subject to the Applicant complying with the comments outlined in the Site Plan and Document Approval Conditions

noted below.

SITE PLAN AND DOCUMENTS APPROVAL CONDITIONS

Staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. 2018-001 for the Subject Property located at 1950 57th Avenue North:

1. **Plat and PUD approval:** Approval of the plat and establishment of the new Planned Unit Development are contingent upon final plat approval and successful recording of said plat. No separation of Lot 1, Block 1, Northbrook Center 2nd Addition, may occur without separate approval of a subdivision as provided under Chapter 15 of the City Code of Ordinances.
    a. The proposed subdivision is as follows:
        Lot 1, Block 1, Northbrook Center 3rd Addition
        (Ebert Construction) –approximately 2.6 acres
        Lot 2, Block 1, Northbrook Center 3rd Addition
        (City of Brooklyn Center) –approximately 4.72 acres
    b. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum, dated March 6, 2018, shall be complied with or completed as part of any final plat approvals.
    c. The final plat shall be subject to the provisions of Chapter 15 (*Platting* Ordinance).

2. **Building and Site Plan and Review:** The building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits; and the final location or placement of any fire hydrants and other fire related building code items shall be reviewed and approved by the Fire Inspector.
    a. Any major changes or modifications made to this Site and Building Plan can only be made by an amendment to the approved Site and Building Plan as approved by the City Council.
    b. A pre-construction conference shall be held with City staff and other entities designated by the City prior to issuance of a Building Permit.

3. **Agreements:**
    a. The Property Owner/Developer shall enter into a PUD agreement with the City of Brooklyn Center to be reviewed and approved by the City Attorney prior to the issuance of building permits. Said agreement shall be filed with the title to the property and shall acknowledge the specific modifications to the C-2 underlying zoning district as well as other conditions of approval. The agreement shall further assure compliance with the development plans submitted with this application.
    b. The owner of the property shall enter into a utility, facilities, and easement agreement for maintenance and inspection of utility and storm drainage systems as approved by the City Engineer prior to the issuance of building permits.
        a. A 10-foot drainage and utility easement must be dedicated on the plat around the entire perimeter of the site and over the storm water BMPS treatment areas up to the 100-year event.

c. The Developer shall execute a separate Performance Agreement with supporting financial guarantee approved by the City, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under this Site and Building Plan.

d. The Developer shall submit an as-built survey of the property, improvements and utility service lines prior to release of the performance guarantee.

4. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated March 6, 2018 (Exhibit D).

a. A land disturbance (alteration) permit is required.

b. Final grading, drainage, utility and erosion control plans and any other site engineering related issues are subject to review and approval by the City Engineer prior to the issuance of permits.

c. Applicant shall meet all requirements as identified by the Minnesota Pollution Control Agency (MPCA).

d. The Applicant shall meet all applicable requirements as identified by Hennepin County in the review dated March 7, 2018 (Exhibit C).

e. The Applicant shall meet all applicable requirements as identified in the review by MnDOT dated March 14, 2018 (Exhibit E).

f. The Applicant shall meet all applicable requirements identified as part of the review by the West Mississippi Watershed Commission.

5. **Construction Standards:**

a. Appropriate erosion and sediment control devices shall be provided on site during construction as approved by the City's Engineering Department.

b. The Applicant shall obtain an NPDES construction site erosion permit from the Minnesota Pollution Control Agency prior to disturbing the site.

c. All work performed and materials used for construction of utilities shall conform to the City of Brooklyn Center Standard Specifications and Details.

6. **Facilities and Equipment:**

a. Any outside trash disposal facilities and roof top or on ground mechanical equipment shall be appropriately screened from view.

b. The building shall be equipped with automatic fire extinguishing systems meeting NFPA standards and shall be connected to a central monitoring device in accordance with Chapter 5 of the City Ordinances.

c. The proposed 12-foot by 12-foot trash enclosure shall be constructed with building materials that are complementary to the principal building (proposed indoor commercial storage building).

7. **Landscaping:** All landscaped areas, including street boulevards, shall include approved irrigation systems to facilitate site maintenance.

a. Per City requirements, an irrigation system is required.

b. The contractor shall submit irrigation shop drawings for review and

approval prior to installation.

8. **Signage:** The Applicant shall submit a Building Permit application for any proposed signage as part of the development proposal. Signage is subject to the Chapter 34 (*Sign Ordinance*).

RECOMMENDATION

Based on the above-noted findings, staff recommends the Planning Commission recommends:

The Planning Commission recommends City Council approval of the requested preliminary plat for Northbrook Center 3rd Addition, subject to the Applicant complying with the comments outlined in the Assistant City Engineer's memorandum dated March 6, 2018 (Exhibit D), Hennepin County review dated March 7, 2018 (Exhibit C), and requirements as outlined by MnDOT in their review dated March 14, 2018 (Exhibit E);

The Planning Commission recommends City Council approval of the requested establishment of a new Planned Unit Development for the proposed indoor commercial storage building, subject to the Owner/Developer complying with the conditions outlined in the Site Plan and Documents Approval Conditions of this Staff Report; and

The Planning Commission recommends City Council approval of the as proposed site and building plans for the Subject Property located at 1950 57th Avenue North (Subject Property), subject to the Owner/Developer complying with the conditions outlined in the Site Plan and Documents Approval Conditions of this Staff Report.

Should the Planning Commission accept these recommendations, the Commission may elect to adopt the draft resolutions to be provided at the scheduled Planning Commission meeting on March 15, 2018.

Attachments

Exhibit A- Proposed Preliminary Plat for Northbrook Center 3rd Addition, prepared by Loucks, dated February 21, 2018.
Exhibit B- Affidavit of Publication, published in the Brooklyn Center *Sun Post* on March 1, 2018.
Exhibit C- Hennepin County Preliminary Plat and Site Review, prepared by Chad Ellos, P.E., dated March 7, 2018.
Exhibit D-Memorandum, prepared by Assistant City Engineer Andrew Hogg, dated March 6, 2018.
Exhibit E-MnDOT Review, prepared by Josh Pansch, dated March 14, 2018.
Exhibit F- Civil Set for Proposed Indoor Commercial Storage Building, prepared by Otto Associates, dated February 13, 2018.
Exhibit G- Select Architectural Renderings and Interior Plans, prepared by Mohagen Hansen, dated January 29, 2018.
Exhibit H- Stormwater Report, prepared by Otto Associates, dated February 12, 2018.

Member Dan Ryan introduced the following resolution and moved its adoption:

RESOLUTION NO. 2018-62

RESOLUTION REGARDING RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-001 SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION REQUESTING APPROVAL OF THE PRELIMINARY PLAT OF NORTHBROOK CENTER 3RD ADDITION (LOCATED AT 1950 57TH AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2018-001 was submitted by Greg Hayes of Ebert Construction, requesting approval of a Preliminary Plat for a new subdivision to be titled NORTHBROOK CENTER 3RD ADDITION, which would subdivide an existing 7.32 acre lot into two lots, and

WHEREAS, on March 15, 2018, the Planning Commission held a duly called public hearing, whereby this item was given due consideration, a staff report was presented, and a public hearing was opened to allow for public testimony regarding the preliminary plat of Northbrook Center 3rd Addition, which were received and noted for the record; and

WHEREAS, the Planning Commission has determined during its review of the preliminary plat materials submitted with Planning Application No. 2018-001, that said plat is in general conformance with City of Brooklyn Center's City Code Chapter 15 – Platting; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Planning Commission Application No. 2018-001, as submitted by Greg Hayes of Ebert Construction, requesting approval of the Preliminary Plat to be titled NORTHBROOK CENTER 3RD ADDITION, is hereby approved subject to the following conditions:

1. The proposed subdivision is as follows:
   Lot 1, Block 1, Northbrook Center 3rd Addition
   (Ebert Construction) –approximately 2.6 acres

   Lot 2, Block 1, Northbrook Center 3rd Addition
   (City of Brooklyn Center) –approximately 4.72 acres

2. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum (dated March 6, 2018), review by MnDOT (dated March 14, 2018), and comments provided by Hennepin County in their review (dated March 7, 2018), shall be complied with or completed as part of any final plat approvals.

3. Approval of this plat will be subject to approval of the site and building plan for an indoor commercial storage building, and establishment of a new Planned Unit Development, also filed under Planning Application

RESOLUTION NO. 2018-62

No. 2018-001.

4. Any easements that need to be vacated under this platting process as determined by the City Engineer must be considered under separate and formal City easement vacation process, with all documentations, descriptions, and exhibits singed by a licensed surveyor.

5. The final plat shall be subject to review and final approvals by the City Engineer, prior to release by the City for recording purposes.

6. The final plat shall be subject to the provisions of Chapter 15 of the City Ordinances.

7. An updated certified abstract of title or registered property report must be provided to the City Attorney and City Engineer for review at the time of the final plat application (within 30 days of release of the final plat).

March 26, 2018
Date

Tim Willson
Mayor

ATTEST: Sharon Knutson
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Kris LAwrence-Anderson
and upon vote being taken thereon, the following voted in favor thereof:
Tim Willson, Marquita Butler, April Graves, Kris Lawrence-Anderson, DAn Ryan
and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Member Kris Lawrence-Anderson introduced the following resolution and moved its adoption:

RESOLUTION NO. 2018-63

RESOLUTION REGARDING THE DISPOSITION OF PLANNING APPLICATION NO. 2018-001 SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION FOR APPROVAL OF A NEW PLANNED UNIT DEVELOPMENT WITH NEW ZONING CLASSIFICATION OF PUD-C2 (PLANNED UNIT DEVELOPMENT - COMMERCE) & DEVELOPMENT SITE PLAN FOR AN INDOOR COMMERCIAL STORAGE BUILDING (LOCATED AT 1950 57TH AVENUE NORTH)

WHEREAS, Planning Application No. 2018-001, submitted by the Greg Hayes of Ebert Construction, requests establishment of a new Planned Unit Development with a Zoning Classification of PUD-C2 (Planned Unit Development - Commerce), and approval of a Development Site Plan for a new indoor commercial storage building, to be located at 1950 57th Avenue North; and

WHEREAS, the proposal comprehends the rezoning of the Subject Property to facilitate the planned and future redevelopment of the site with a proposed four-story, 112,000-square foot indoor commercial storage building, along with other associated improvements including, but not limited to parking and drive areas, stormwater management, and landscaping; and

WHEREAS, the subject property is identified and guided in the 2030 Comprehensive Plan as TH/MF/OS/RB/PS ("Townhome,", "Multi-Family,", "Office/Service Business," "Retail Business", "Public and Semi-Public"), and the proposed PUD-C2 zoning designation comprehended under this application would be consistent with this underlying land use category; and

WHEREAS, on March 15, 2018, the Planning Commission held a duly called public hearing, whereby a planning report was presented and public testimony regarding this proposed planned unit development was received and noted for the official record, and the request was duly considered in light of all testimony received; and

WHEREAS, the Planning Commission considered the rezoning comprehended under this Planned Unit Development (PUD) request in light of all testimony received, the guidelines for evaluating rezoning contained in Section 35-208 of the City's Zoning Ordinance, along with the provisions and standards of the C2 (Commerce) District, as contained in Section 35-322, along with the provisions and standards of the Planned Unit Development District contained in Section 35-355 of the City's Zoning Ordinance; and

WHEREAS, on March 15, 2018, the Planning Commission reviewed and considered the proposed new PUD development plans, which included the new site and building plans for the new four story, 112,000-square foot indoor commercial storage building, elevation plans, and civil plans completed by Mohagen Hansen and Otto Associates, and found the plans to

be in order and approved for the Subject Property.

WHEREAS, the Planning Advisory Commission of the City of Brooklyn Center recommends to the City Council that the rezoning element comprehended under the proposed Planned Unit Development and submitted under Application No. 2018-001 by Greg Hayes of Ebert Construction, may be approved based upon the following findings:

a. The proposed rezoning appears to demonstrate a clear and public need or benefit to the community and regional area, as it will improve the appearance of the city and enhance the quality of life, property values, and civic pride in this neighborhood area; and provide an opportunity for the currently vacant 57th and Logan site to be invested in;

b. The rezoning and its related development proposal will not be a detriment to the neighborhood, and should provide a positive effect on the community;

c. The rezoning will facilitate the redevelopment of this site as an indoor commercial storage building, which will be compatible with the goals and policies of the City's Comprehensive Plan and underlying land use plan, which designates the Subject Property for a mixed range of uses, including OS ("Office/Service Business,") and RB ("Retail Business");

d. The proposed zoning is consistent and compatible with the surrounding land use classifications;

e. The proposed rezoning will provide an opportunity for the Subject Property to maintain its underlying C2 (Commerce) District zoning classification with the flexibility of a Planned Unit Development (PUD), allow an approximately 2.6 acre portion of vacant land to be redeveloped into an indoor commercial storage building, and stimulate new investment in the neighborhood and community;

f. The Development/Site and Building Plan is compatible with the standards, purposes, and intent of the City's Zoning Ordinance;

g. The Development/Site and Building Plan, in relation to the Planned Unit Development proposed on the Subject Property, will facilitate the redevelopment and improvement of the site, will allow for the utilization of the land in question in a manner which is compatible with, complementary to, and of comparable intensity to adjacent land uses as well as those permitted on surrounding land;

h. The improvements and utilization of the Subject Property as proposed under the planned redevelopment of this site is considered a reasonable use of the

property and will conform with ordinance standards; and

i. The Development/Site and Building Plan proposal is considered consistent with the recommendations of the City's Comprehensive Plan for this area of the city, appears to be a good long range use of the existing land, and can be considered an asset to the community.

AND WHEREAS, upon due and proper consideration of this matter, and in light of all testimony received, utilizing the guidelines for evaluating rezoning contained in Section 35-208 of the City's Zoning Ordinance and the provisions of the Planned Unit Development ordinance contained in Section 35-355 of the City's Zoning Ordinance and the City's Comprehensive Plan, the Planning Advisory Commission formulated a favorable and unanimous recommendation of approval be forwarded to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Brooklyn Center, Minnesota, to recommend to that Planning Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, which proposes a new Planned Unit Development with a Zoning Classification of PUD-C2 (Planned Unit Development - Commerce) and a Development Site Plan for a new indoor commercial storage building, located at 1950 57th Avenue North, be approved based on the following conditions:

1. **Plat and PUD approval:** Approval of the plat and establishment of the new Planned Unit Development are contingent upon final plat approval and successful recording of said plat. No separation of Lot 1, Block 1, Northbrook Center 2nd Addition, may occur without separate approval of a subdivision as provided under Chapter 15 of the City Code of Ordinances.
    a. The proposed subdivision is as follows:
        Lot 1, Block 1, Northbrook Center 3rd Addition
        (Ebert Construction) –approximately 2.6 acres
        Lot 2, Block 1, Northbrook Center 3rd Addition
        (City of Brooklyn Center) –approximately 4.72 acres
    b. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum, dated March 6, 2018, shall be complied with or completed as part of any final plat approvals.
    c. The final plat shall be subject to the provisions of Chapter 15 (*Platting* Ordinance).

2. **Building and Site Plan and Review:** The building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits; and the final location or placement of any fire hydrants and other fire related building code items shall be reviewed and approved by the Fire Inspector.
    a. Any major changes or modifications made to this Site and Building Plan can only be made by an amendment to the approved Site and Building Plan as approved by the City Council.
    b. A pre-construction conference shall be held with City staff and other entities designated by the City prior to issuance of a Building Permit.

3. **Agreements:**

a. The Property Owner/Developer shall enter into a PUD agreement with the City of Brooklyn Center to be reviewed and approved by the City Attorney prior to the issuance of building permits. Said agreement shall be filed with the title to the property and shall acknowledge the specific modifications to the C-2 underlying zoning district as well as other conditions of approval. The agreement shall further assure compliance with the development plans submitted with this application.

b. The owner of the property shall enter into a utility, facilities, and easement agreement for maintenance and inspection of utility and storm drainage systems as approved by the City Engineer prior to the issuance of building permits.
    a. A 10-foot drainage and utility easement must be dedicated on the plat around the entire perimeter of the site and over the storm water BMPS treatment areas up to the 100-year event.

c. The Developer shall execute a separate Performance Agreement with supporting financial guarantee approved by the City, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under this Site and Building Plan.

d. The Developer shall submit an as-built survey of the property, improvements and utility service lines prior to release of the performance guarantee.

4. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated March 6, 2018 (Exhibit D).
    a. A land disturbance (alteration) permit is required.
    b. Final grading, drainage, utility and erosion control plans and any other site engineering related issues are subject to review and approval by the City Engineer prior to the issuance of permits.
    c. Applicant shall meet all requirements as identified by the Minnesota Pollution Control Agency (MPCA).
    d. The Applicant shall meet all applicable requirements as identified by Hennepin County in the review dated March 7, 2018 (Exhibit C).
    e. The Applicant shall meet all applicable requirements as identified in the review by MnDOT dated March 14, 2018 (Exhibit E).
    f. The Applicant shall meet all applicable requirements identified as part of the review by the West Mississippi Watershed Commission.

5. **Construction Standards:**
    a. Appropriate erosion and sediment control devices shall be provided on site during construction as approved by the City's Engineering Department.
    b. The Applicant shall obtain an NPDES construction site erosion permit from the Minnesota Pollution Control Agency prior to disturbing the site.
    c. All work performed and materials used for construction of utilities shall conform to the City of Brooklyn Center Standard Specifications and Details.

RESOLUTION NO. 2018-63

6. **Facilities and Equipment:**
   a. Any outside trash disposal facilities and roof top or on ground mechanical equipment shall be appropriately screened from view.
   b. The building shall be equipped with automatic fire extinguishing systems meeting NFPA standards and shall be connected to a central monitoring device in accordance with Chapter 5 of the City Ordinances.
   c. The proposed 12-foot by 12-foot trash enclosure shall be constructed with building materials that are complementary to the principal building (proposed indoor commercial storage building).

7. **Landscaping:** All landscaped areas, including street boulevards, shall include approved irrigation systems to facilitate site maintenance.
   a. Per City requirements, an irrigation system is required.
   b. The contractor shall submit irrigation shop drawings for review and approval prior to installation.

8. **Signage:** The Applicant shall submit a Building Permit application for any proposed signage as part of the development proposal. Signage is subject to the Chapter 34 (*Sign Ordinance*).

March 26, 2018
Date

Tim Willson
Mayor

ATTEST: Sharon Knutson
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Dan Ryan
and upon vote being taken thereon, the following voted in favor thereof:
Tim Willson, MArquita Butler, April Graves, Kris Lawrence-Anderson, DAn Ryan

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Commissioner Koenig introduced the following resolution and moved its adoption:

PLANNING COMMISSION RESOLUTION NO. 2018-002

RESOLUTION REGARDING THE DISPOSITION OF PLANNING APPLICATION NO. 2018-001 SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION FOR APPROVAL OF A NEW PLANNED UNIT DEVELOPMENT WITH NEW ZONING CLASSIFICATION OF PUD-C2 (PLANNED UNIT DEVELOPMENT - COMMERCE) & DEVELOPMENT SITE PLAN FOR AN INDOOR COMMERCIAL STORAGE BUILDING (LOCATED AT 1950 57TH AVENUE NORTH)

WHEREAS, Planning Application No. 2018-001, submitted by the Greg Hayes of Ebert Construction, requests establishment of a new Planned Unit Development with a Zoning Classification of PUD-C2 (Planned Unit Development - Commerce), and approval of a Development Site Plan for a new indoor commercial storage building, to be located at 1950 57th Avenue North; and

WHEREAS, the proposal comprehends the rezoning of the Subject Property to facilitate the planned and future redevelopment of the site with a proposed four-story, 112,000-square foot indoor commercial storage building, along with other associated improvements including, but not limited to parking and drive areas, stormwater management, and landscaping; and

WHEREAS, the subject property is identified and guided in the 2030 Comprehensive Plan as TH/MF/OS/RB/PS ("Townhome,", "Multi-Family,", "Office/Service Business," "Retail Business", "Public and Semi-Public"), and the proposed PUD-C2 zoning designation comprehended under this application would be consistent with this underlying land use category; and

WHEREAS, on March 15, 2018, the Planning Commission held a duly called public hearing, whereby a planning report was presented and public testimony regarding this proposed planned unit development was received and noted for the official record, and the request was duly considered in light of all testimony received; and

WHEREAS, the Planning Commission considered the rezoning comprehended under this Planned Unit Development (PUD) request in light of all testimony received, the guidelines for evaluating rezoning contained in Section 35-208 of the City's Zoning Ordinance, along with the provisions and standards of the C2 (Commerce) District, as contained in Section 35-322, along with the provisions and standards of the Planned Unit Development District contained in Section 35-355 of the City's Zoning Ordinance; and

WHEREAS, on March 15, 2018, the Planning Commission reviewed and considered the proposed new PUD development plans, which included the new site and building plans for the new four story, 112,000-square foot indoor commercial storage building, elevation plans, and civil plans completed by Mohagen Hansen and Otto Associates, and found the plans to be in order and approved for the Subject Property.

WHEREAS, the Planning Advisory Commission of the City of Brooklyn Center recommends to the City Council that the rezoning element comprehended under the proposed Planned Unit Development and submitted under Application No. 2018-001 by Greg Hayes of Ebert Construction, may be approved based upon the following findings:

a. The proposed rezoning appears to demonstrate a clear and public need or benefit to the community and regional area, as it will improve the appearance of the city and enhance the quality of life, property values, and civic pride in this neighborhood area; and provide an opportunity for the currently vacant 57th and Logan site to be invested in;

b. The rezoning and its related development proposal will not be a detriment to the neighborhood, and should provide a positive effect on the community;

c. The rezoning will facilitate the redevelopment of this site as an indoor commercial storage building, which will be compatible with the goals and policies of the City's Comprehensive Plan and underlying land use plan, which designates the Subject Property for a mixed range of uses, including OS ("Office/Service Business,") and RB ("Retail Business");

d. The proposed zoning is consistent and compatible with the surrounding land use classifications;

e. The proposed rezoning will provide an opportunity for the Subject Property to maintain its underlying C2 (Commerce) District zoning classification with the flexibility of a Planned Unit Development (PUD), allow an approximately 2.6 acre portion of vacant land to be redeveloped into an indoor commercial storage building, and stimulate new investment in the neighborhood and community;

f. The Development/Site and Building Plan is compatible with the standards, purposes, and intent of the City's Zoning Ordinance;

g. The Development/Site and Building Plan, in relation to the Planned Unit Development proposed on the Subject Property, will facilitate the redevelopment and improvement of the site, will allow for the utilization of the land in question in a manner which is compatible with, complementary to, and of comparable intensity to adjacent land uses as well as those permitted on surrounding land;

h. The improvements and utilization of the Subject Property as proposed under the planned redevelopment of this site is considered a reasonable use of the

property and will conform with ordinance standards; and

i. The Development/Site and Building Plan proposal is considered consistent with the recommendations of the City's Comprehensive Plan for this area of the city, appears to be a good long range use of the existing land, and can be considered an asset to the community.

AND WHEREAS, upon due and proper consideration of this matter, and in light of all testimony received, utilizing the guidelines for evaluating rezoning contained in Section 35-208 of the City's Zoning Ordinance and the provisions of the Planned Unit Development ordinance contained in Section 35-355 of the City's Zoning Ordinance and the City's Comprehensive Plan, the Planning Advisory Commission formulated a favorable and unanimous recommendation of approval be forwarded to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the Planning Advisory Commission of the City of Brooklyn Center to recommend to the City Council that Planning Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, which proposes a new Planned Unit Development with a Zoning Classification of PUD-C2 (Planned Unit Development - Commerce) and a Development Site Plan for a new indoor commercial storage building, located at 1950 57th Avenue North, be approved based on the following conditions:

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    b. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum, dated March 6, 2018, shall be complied with or completed as part of any final plat approvals.
    c. The final plat shall be subject to the provisions of Chapter 15 (*Platting* Ordinance).

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    a. Any major changes or modifications made to this Site and Building Plan can only be made by an amendment to the approved Site and Building Plan as approved by the City Council.
    b. A pre-construction conference shall be held with City staff and other entities designated by the City prior to issuance of a Building Permit.

3. **Agreements:**
    a. The Property Owner/Developer shall enter into a PUD agreement with the City of Brooklyn Center to be reviewed and approved by the City Attorney prior to the issuance of building permits. Said agreement shall be filed with the title to the property and shall acknowledge the specific modifications to the C-2 underlying zoning district as well as other conditions of approval. The agreement shall further assure compliance with the development plans submitted with this application.
    b. The owner of the property shall enter into a utility, facilities, and easement agreement for maintenance and inspection of utility and storm drainage systems as approved by the City Engineer prior to the issuance of building permits.
        a. A 10-foot drainage and utility easement must be dedicated on the plat around the entire perimeter of the site and over the storm water BMPS treatment areas up to the 100-year event.
    c. The Developer shall execute a separate Performance Agreement with supporting financial guarantee approved by the City, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under this Site and Building Plan.
    d. The Developer shall submit an as-built survey of the property, improvements and utility service lines prior to release of the performance guarantee.

4. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated March 6, 2018 (Exhibit D).
    a. A land disturbance (alteration) permit is required.
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    c. Applicant shall meet all requirements as identified by the Minnesota Pollution Control Agency (MPCA).
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5. **Construction Standards:**
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6. **Facilities and Equipment:**
   a. Any outside trash disposal facilities and roof top or on ground mechanical equipment shall be appropriately screened from view.
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   c. The proposed 12-foot by 12-foot trash enclosure shall be constructed with building materials that are complementary to the principal building (proposed indoor commercial storage building).

7. **Landscaping:** All landscaped areas, including street boulevards, shall include approved irrigation systems to facilitate site maintenance.
   a. Per City requirements, an irrigation system is required.
   b. The contractor shall submit irrigation shop drawings for review and approval prior to installation.

8. **Signage:** The Applicant shall submit a Building Permit application for any proposed signage as part of the development proposal. Signage is subject to the Chapter 34 (*Sign Ordinance*).

March 15, 2018
Date

Randall Christensen, Chair

ATTEST: _____
Ginny McIntosh, Secretary

The motion for the adoption of the foregoing resolution was duly seconded by member Tade and upon vote being taken thereon, the following voted in favor thereof:
Alexander Koenig, Susan Tade, John MacMillan, Rochelle Sweeney, and Randall Christensen

and the following voted against the same: Stephen Schonning and Abraham Rizvi
whereupon said resolution was declared duly passed and adopted.

PLANNED UNIT
DEVELOPMENT AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of the _____ day of May, 2018, by and between EBERT INC. D/B/A EBERT CONSTRUCTION, a Minnesota corporation ("Ebert") and the CITY OF BROOKLYN CENTER, a Minnesota municipal corporation (the "City").

WHEREAS, Ebert is the owner of the real property described as Lot 1, Block 1, Northbrook Center 3rd Addition, according to the recorded plat thereof, Hennepin County, Minnesota (the "Ebert Property"); and

WHEREAS, the Ebert Property is currently zoned C-2 (Commerce); and

WHEREAS, in connection with the development of the Ebert Property, Ebert has applied to the City to rezone the Ebert Property from C-2 to PUD/C-2 (Planned Unit Development/Commerce) to allow construction and maintenance of an approximately 112,000 square foot indoor commercial storage building on the Ebert Property; and

WHEREAS, the City has approved such PUD on the basis of the determination of the City Council of the City that such PUD is acceptable only by reason of the details of the development proposed and the unique land use characteristics of the Ebert Property; and that but for the details of the development proposed and the unique land use characteristics of such proposed use, the PUD

would not have been approved; and

WHEREAS, as a condition of approval of the PUD, the City has required the execution and filing of this Planned Unit Development Agreement (hereinafter the "PUD Agreement"); and

NOW, THEREFORE, in consideration of approval of the PUD rezoning, the parties hereto agree that the Ebert Property is, and shall be, held, transferred, sold, conveyed and occupied subject to the covenants, conditions, and restrictions, hereinafter set forth.

1. The Ebert Property shall be limited to the following uses:

   A commercial indoor storage use consisting of an approximately 112,000 square foot, four story facility with storage units, an office area, a break room, a utility room, and restroom facilities.

   Notwithstanding the foregoing, in the event that Ebert and its affiliates cease to have any fee or leasehold estate in the Ebert Property, the Ebert Property shall be permitted to be used for any commercial use conforming to the zoning regulations of the City of Brooklyn Center applicable to C-2 districts.

2. Except as otherwise permitted herein, the use of the Ebert Property shall conform to the zoning regulations of the City of Brooklyn Center applicable to C-2 Districts.

3. Any additional buildings or structures on the Ebert Property will require site plan approval by the City Council.

4. The Ebert Property may be used only in accordance with paragraph 1 of this Agreement unless the applicant first secures approval by the City Council of an amendment to the PUD Plan for the Ebert Property and to this Agreement or a rezoning to a zoning classification that permits such other development and use.

5. The restrictions of this Agreement run with the land of the Ebert Property and shall

be enforceable against Ebert and its successors and assigns by the City acting through its City Council.

6. The development of the Ebert Property shall be in substantial compliance with the approved PUD plan. Substantial compliance shall mean that buildings, parking areas, and roads are in essentially the same location as previously approved; the floor area of nonresidential areas has not been increased or decreased by more than five percent; no building has been increased or decreased in the number of floors, open space has not been decreased or altered from its original design or use, and lot coverage of any individual building has not been increased or decreased by more than 10 percent, unless approval is obtained by the City Council.

7. This Agreement may be amended from time to time by a written amendment executed by the City and the owner(s) of the Ebert Property.

IN WITNESS WHEREOF, the undersigned as duly authorized agents, officials, officers, and representatives of Ebert and the City have hereunto set their hands and seals as of the day and year first above written.

Signature Pages follow

EBERT INC. D/B/A EBERT CONSTRUCTION

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged this ____ day of _____, 2018, by _____, the _____ of Ebert Inc. d/b/a Ebert Construction, a Minnesota corporation, on behalf of the corporation.

_____
Notary Public

APPROVED BY THE CITY OF BROOKLYN CENTER

By_____
Tim Willson, Mayor

By_____
Curt Boganey, City Manager

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Tim Willson and Curt Boganey, the Mayor and City Manager, respectively, of the City of Brooklyn Center, a public body corporate and politic under the laws of Minnesota, on behalf of the City.

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Kennedy and Graven, Chartered (SJS)
470 U. S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

57th and Logan | Ebert Construction



REQUEST:

(1) **PUBLIC HEARING:** Amend Chapter 35 (Zoning Ordinance) to Rezone Certain Property

FROM:

C2 (Commerce) District

TO:

PUD/C2 (Planned Unit Development – Commerce) District

(2) Approval of Planned Unit Development Agreement between the City and Ebert Inc. D/B/A Ebert Construction

Request #1 : PUD Re-zoning | Ordinance

Request #1: PUD Re-zoning (CC Item 8.a)

- Motion to approve Second Reading of the Ordinance authorizing an amendment to Chapter 35 of the City Code of Ordinances regarding the zoning classification of certain land.
  - This item is a **Public Hearing.** A public notice was published in the Brooklyn Center *Sun Post* on **April 19, 2018**.

- The following requests were **approved** by City Council on March 26, 2018, under Planning Commission Application No. 2018-001:
  - (1) Preliminary Plat for Northbrook Center 3rd Addition;
  - (2) Establishment of a Planned Unit Development for a four-story, 112,000-square foot indoor commercial storage building with a New Zoning Classification of PUD-C2 (Planned Unit Development – Commerce) District;
  - (3) Site and Building Plan Approval; and
- Approved by City Council on April 9, 2018:
  - (4) Final Plat for Northbrook Center 3rd Addition

- The establishment of a PUD requires that the property be formally re-zoned
- The rezoning of property requires that Chapter 35 (Zoning Ordinance) be amended to reflect this change, as legal descriptions are listed and organized by zoning district within the Zoning Ordinance

Request #1 : PUD Re-zoning | Ordinance

- Amend Chapter 35 (Zoning Ordinance) of the City Code of Ordinances regarding the zoning classification of:
  - Lot 1, Block 1, Northbrook Center 3rd Addition, Hennepin County, Minnesota
- The above approximately 2.6 acre property would be re-zoned from C2 (Commerce) District to PUD-C2 (Planned Unit Development-Commerce) District
- The remaining portion of the 57th and Logan Site would remain zoned C2 (Commerce) District and the City would continue ownership for the time being
- The establishment of a PUD allowed for the proposed use (indoor commercial storage building) and minimum parking requirements to be defined

Amend from:

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 35 of the City Ordinances of the City of Brooklyn Center is hereby amended in the following manner:

Section 35-1190. COMMERCE DISTRICT (C2). The following properties are hereby established as being within the (C2) Commerce District zoning classification:

~~That area bounded by the following: Logan Avenue on the east; 57th Avenue on the south; State Highway No. 100 on the west and north.~~

Outlot A, Northbrook Center 2nd Addition.

Lot 2, Block 1, Northbrook Center 3rd Addition.

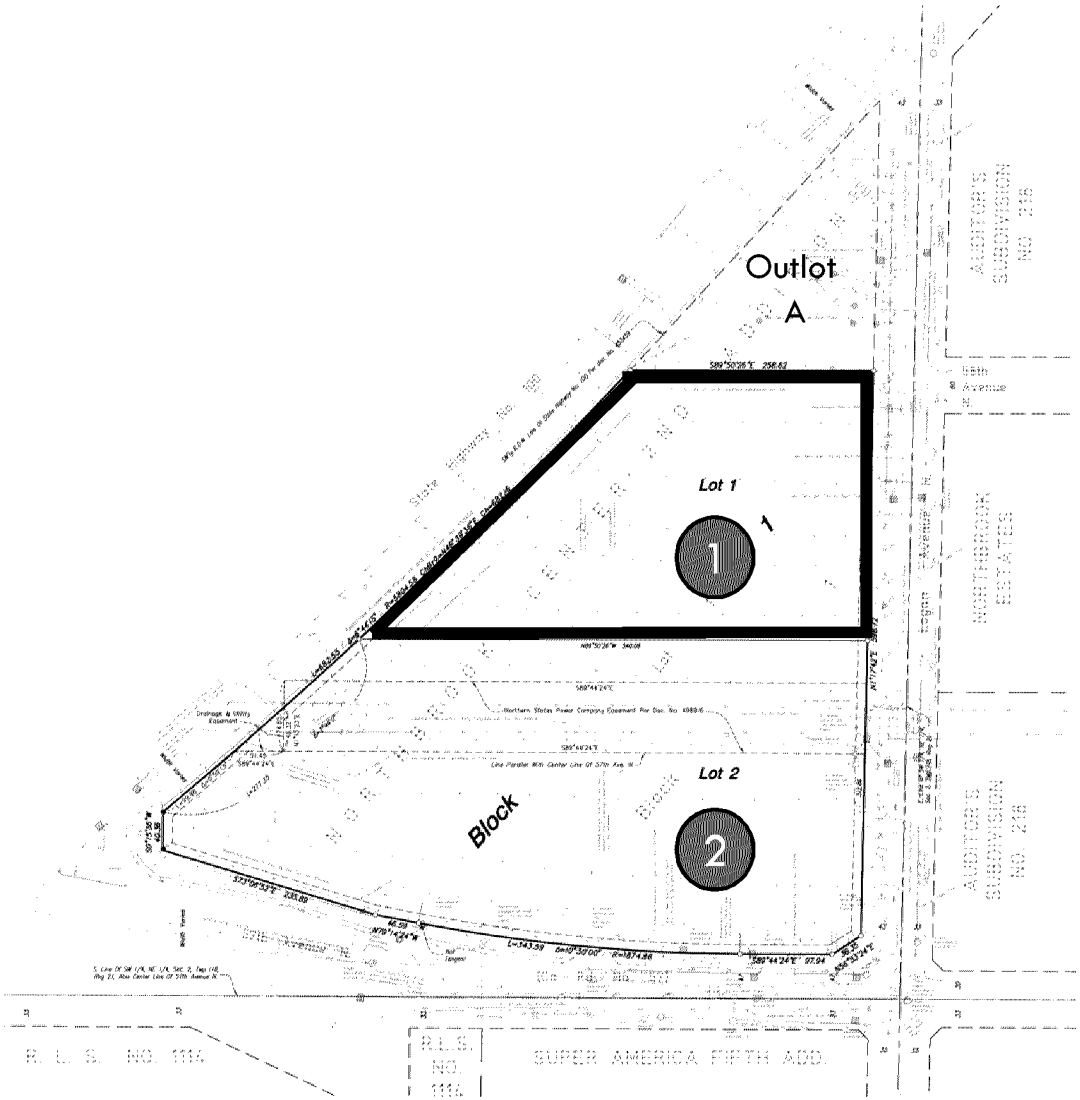
To:

Section 35-1240. PLANNED UNIT DEVELOPMENT DISTRICT (PUD). The following properties are hereby established as being within a (PUD) Planned Unit Development District Zoning Classification:

4. The following properties are designated as PUD/C2 (Planned Unit Development/Commerce):

Lot 1, Block 1, Northbrook Center 3rd Addition.

Proposed Rezoning



LOT 1 (Subject Property) – to be re-zoned to **PUD-C2 District**

- ***Total Acreage:*** *Approximately 2.6 acres*

LOT 2 (City of Brooklyn Center)– to remain zoned C2 District

- ***Total Acreage:*** *Approximately 4.72 acres*

Summary & Recommendation (CC Item 8.a)

Summary

- The first reading of the draft ordinance was read at the April 9, 2018, City Council meeting as a consent agenda item
  - No comments or objections were received from the public
  - The second reading and public hearing was scheduled for tonight's City Council meeting (May 15, 2018)

Recommendation

It is recommended that City Council make a Motion to adopt the Ordinance authorizing the amendment of Chapter 35 of the City Code of Ordinances regarding the zoning classification of certain land generally located in the southeast section of the City, generally situated between Highway 100 to the west and north, Logan Avenue North to the east, and 57th Avenue North to the south, and locally identified as 1950 57th Avenue North.

Requested Council Action:

- –Motion to open Public Hearing.
- –Take public input.
- –Motion to close Public Hearing.
- –Motion to adopt Ordinance.

Request #2 : Approval of PUD Agreement

Request #2: Approval of PUD Agreement (CC Item 8.a.1)

- This item is *not* a Public Hearing and did not require a notice to be placed in the newspaper
- As part of the Conditions of Approval for the four-story, 112,000-square foot indoor commercial storage building, approved by City Council Resolution No. 2018-63 (Establishment of a New Planned Unit Development and Site and Building Plan Approval), the City and Ebert Inc./D/B/A Ebert Construction shall enter into:
  - **A Planned Unit Development (PUD) Agreement** to be reviewed and approved by the City Attorney prior to issuance of building permits for the aforementioned project.
- This condition is also outlined in the Planning Commission Staff Report (dated March 15, 2018), and PC Resolution No. 2018-002.
- A copy of the draft PUD agreement, which was prepared by the City Attorney, is included in the City Council packets for review.
- Approval of the PUD Agreement is subject to minor revisions as determined by the Applicant (Ebert, Inc./D/B/A Ebert Construction) and approval by the City Attorney.

Recommendation (CC Item 8.a.1)

Recommendation

It is recommended that City Council make a Motion to approve the Planned Unit Development (PUD) Agreement between the City and Ebert Inc. D/B/A Ebert Construction.

City Council Agenda Item No. 9a

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Ginny McIntosh, City Planner/Zoning Administrator

SUBJECT: Resolution Regarding the Use of Certain Exterior Materials in the Renovation of the Former Kohl's Building (2501 County Road 10)

Recommendation:

It is recommended that the City Council, following consideration of this item, adopt the resolution regarding the recommended disposition of the request to use certain exterior materials in the renovation of the former Kohl's building, submitted by HOM Furniture, Inc. (Located at 2501 County Road). Approval is subject to the Applicant/Property Owner complying with the conditions outlined in the attached draft City Council resolution.

Background:

On February 13, 2017, the City Council approved Resolution No. 2017-25 (*Resolution Regarding the Disposition of Planning Commission Application No. 2017-001 Submitted by HOM Furniture Inc. and Gatlin Development Company for Planned Unit Development Amendment NO. 8 to the 2011 Shingle Creek Crossing Planned Unit Development and Site and Building Plan for HOM Furniture Store (Located at 2501 County Road 10))*, which granted certain allowances in the re-development of the former Kohl's building. This included the allowance for a two-story, approximately 24,000-square foot addition to the building, as well as an allowance for a reduced amount of Class I materials on the north elevation (face).

The Subject Property is located within the Shingle Creek Crossing Planned Unit Development (PUD). As such, properties within the PUD are required to achieve certain minimum exterior building material ratios. In the case of the Subject Property, the Guidelines require that a minimum of 50-percent Class I and 50-percent Class II ratio be achieved on each face of the building, with the exception of the north face. Under City Council Resolution No. 2017-25, the Applicant was granted a reduction in the minimum required amount of Class I building materials on the north face of the former Kohl's building and the east and west elevations of the warehouse portion on the north face of the former Kohl's building. All other elevations were required to achieve the minimum ratio of Class I and Class II building materials as outlined in the Guidelines.

Following conversations with the Applicant's Architect (Archnet), it was determined that the south elevation was deficient by 13 percent, per architectural renderings dated February 26, 2018 (attached). This is due to the Developer's utilization of an exterior, panelized fiber cement cladding system called "Nichiha," which is considered Class II under the Shingle Creek Crossing Architectural Design Guidelines. These fiber cement panels are manufactured from a pressed,

stamped, and autoclaved mix of Portland cement, fly ash, silica, recycled rejects, and wood fiber bundles, and are installed through utilization of a clip system. This method of manufacturing and installation allows for longer life expectancy and quality over other types of fiber cement products.

Although the Class I and Class II type building materials are clearly outlined in the Shingle Creek Crossing Architectural Design Guidelines, the Planning Commission and City Council retain the authority under the Guidelines to determine what constitutes Class I material for the purposes of projects constructed within the Shingle Creek Crossing PUD.

It is for this reason that the Applicant has requested that Nichiha, in the percentages identified in the plans dated February 26, 2018, be considered as functionally equivalent to a Class I material due to its appearance and overall durability. Approval of this request would not constitute an overall, blanket approval of fiber cement products as Class I within the City, rather, it would allow the Applicant to meet their minimum exterior building material ratios for the project as defined under the Guidelines, and allow for the use of a newer building material product, in this instance.

The Planning Commission reviewed the Nichiha product and the request at the Planning Commission on April 26, 2018, and was provided with additional information by John Pierce, Real Estate Manager for HOM Furniture. A discussion was held regarding whether the product sample presented was the same product to be installed, and regarding what the product is comprised of. Following a review and discussion of the request, the Planning Commission elected to approve the request unanimously (5-0). No additional questions or concerns were raised in advance of the meeting, or by anyone in attendance at the meeting.

Attached for your review are copies of the architectural renderings dated February 26, 2018, and a draft copy of the Council resolution. The Applicant will be in attendance at the City Council meeting to present the proposed Nichiha product to City Council.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Targeted Redevelopment



VIEW FROM SOUTH WEST

SOUTH ELEVATION
CLASS 1 GLASS & STUCCO 1,510 + 1,797 =3,308 SQ.FT. 37%
CLASS 2 NICHIHA 2,470 + 3,041 = 5,511 SQ.FT. 63%
TOTAL 8,818



SOUTH ELEVATION
SCALE 1"-20'

PRELIMINARY BUILDING DESIGN
PHASE 1

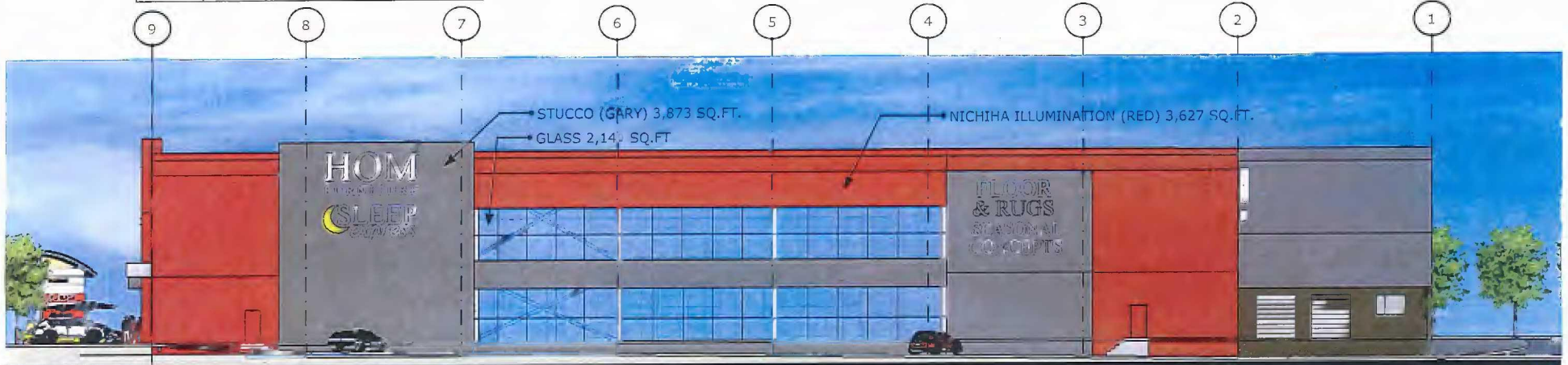
HOM FURNITURE

BROOKLYN CENTER, MN

PAGE 1
2-26-18

ARCHNET usa

EAST ELEVATION
CLASS 1 GLASS & STUCCO 3,873 + 2,140 = 6,013 SQ.FT. 62%
CLASS 2 NICHIHA 3,627 SQ.FT. 38%
TOTAL 9,640



EAST ELEVATION
SCALE 1"-20'

TOTAL 9,640 SQ.FT.



VIEW FROM HWY 100

PRELIMINARY BUILDING DESIGN
PHASE 1

HOM FURNITURE

BROOKLYN CENTER, MN

ARCHNET usa



VIEW FROM BASS LAKE RD

WEST ELEVATION		
CLASS 1 GLASS & STUCCO	1,704 + 2,718 = 4,422 SQ.FT.	52%
CLASS 2 NICHIHA	1,231 + 2,822 = 4,053 SQ.FT.	48%
TOTAL 8,475 SQ.FT.		



WEST ELEVATION
SCALE 1"-20'

PRELIMINARY BUILDING DESIGN
PHASE 1

HOM FURNITURE

BROOKLYN CENTER, MN

2-26-18

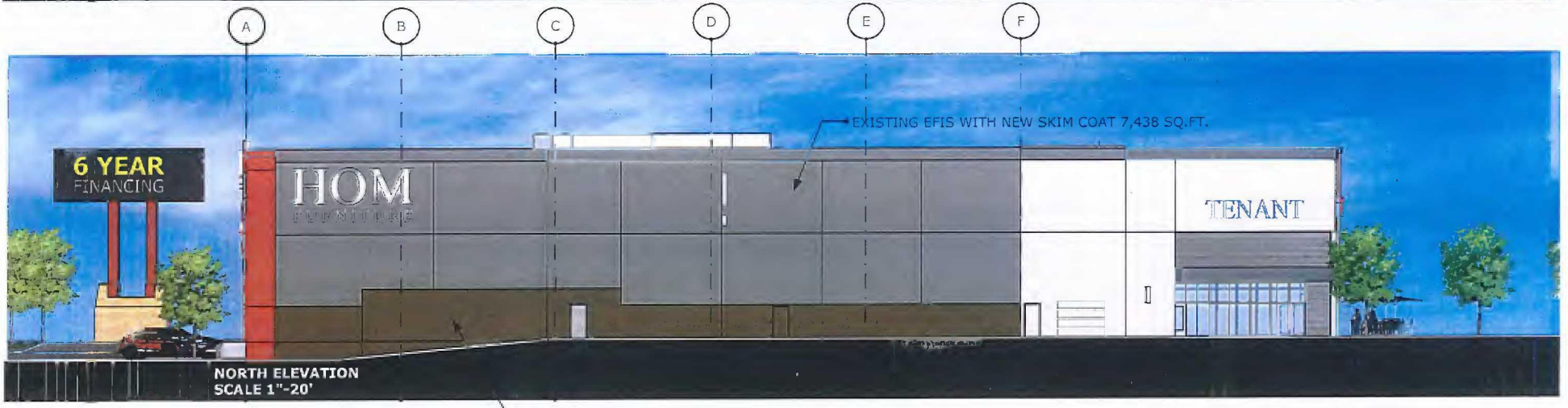
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VIEW FROM HWY 100



VIEW FROM BASS LAKE RD



NORTH ELEVATION
SCALE 1"-20'

EXISTING BRICK TO REMAIN

PRELIMINARY BUILDING DESIGN
PHASE 1

HOM FURNITURE

BROOKLYN CENTER, MN

2-26-18

ARCHNET usa

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF THE REQUEST TO USE CERTAIN EXTERIOR MATERIALS IN THE RENOVATION OF THE FORMER KOHL'S BUILDING SUBMITTED BY HOM FURNITURE, INC. (LOCATED AT 2501 COUNTY ROAD 10)

WHEREAS, on February 13, 2017 the City Council adopted Resolution No. 2017-25 ("Approval Resolution"), approving an amendment to the 2011 Shingle Creek Crossing Planned Unit Development to facilitate the renovation of the approximately 75,000 square foot former Kohl's building and construction of an approximately 24,000 square foot addition (collectively, the "Project") on the property located at 2501 County Road 10, Brooklyn Center ("Subject Property"); and

WHEREAS, in constructing the Project, KKMBA Brooklyn Center LLC ("Developer") is required to achieve the use of at least 50-percent Class I and a remaining 50-percent Class II building materials on each face of the building, with the exception of the north elevation side of the former Kohl's building and the east and west elevations of the warehouse portion located on the north face of the former Kohl's building as approved by the City Council in the Approval Resolution; and

WHEREAS, the requirements related to the class of materials used for the Project is consistent with the Architectural Design Guidelines ("Guidelines") adopted for the Shingle Creek Crossing PUD; and

WHEREAS, the Developer proposes to use a fiber-cement product (Nichiha) ("Alternative Material") on a portion of the building exterior that technically does not constitute a Class I material, but the appearance and durability of the Alternative Material appears to be functionally equivalent to a Class I material; and

WHEREAS, the Planning Commission and City Council retain the authority under the Guidelines to determine what constitutes a Class I material for the purposes of projects constructed within the Shingle Creek Crossing PUD area; and

WHEREAS, the Planning Commission considered the proposed use of the Alternative Material as a Class I material at its meeting held on April 26, 2018 and acted to recommend the City Council approve the Alternative Material to qualify as a Class I material for the purpose of the Project; and

WHEREAS, the City Council agrees with the recommendation of the Planning Commission that, under these particular circumstances and provided the Developer complies with the plans presented to the City, the Alternative Material can be used for the purposes of satisfying the requirements of the Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the Alternative Material for the Project located at 2501 County Road 10 be approved subject to the following conditions and considerations:

1. The specific Alternative Material proposed by the Developer for the Project, in the percentages identified in the plans dated February 26, 2018, is hereby approved as constituting as Class I material for the purposes of calculating the amount of Class I exterior materials required under the Guidelines for construction of the Project in accordance with the Approval Resolution.

2. This approval is limited to this Project and does not constitute a general approval of fiber-cement siding products as Class I materials in the City.

May 14, 2018
Date

_____
Mayor

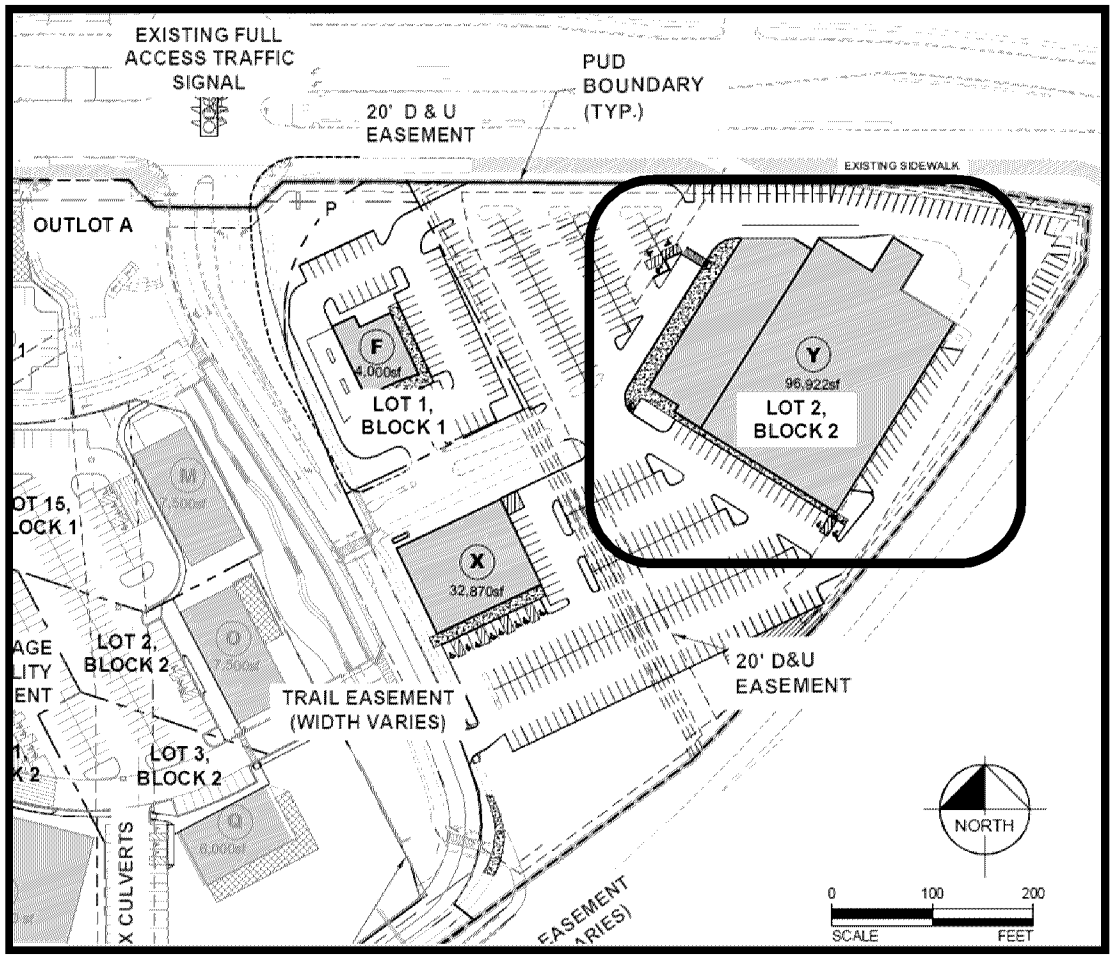
ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

HOM Furniture



REQUEST:

(1) Use of Certain Exterior Materials

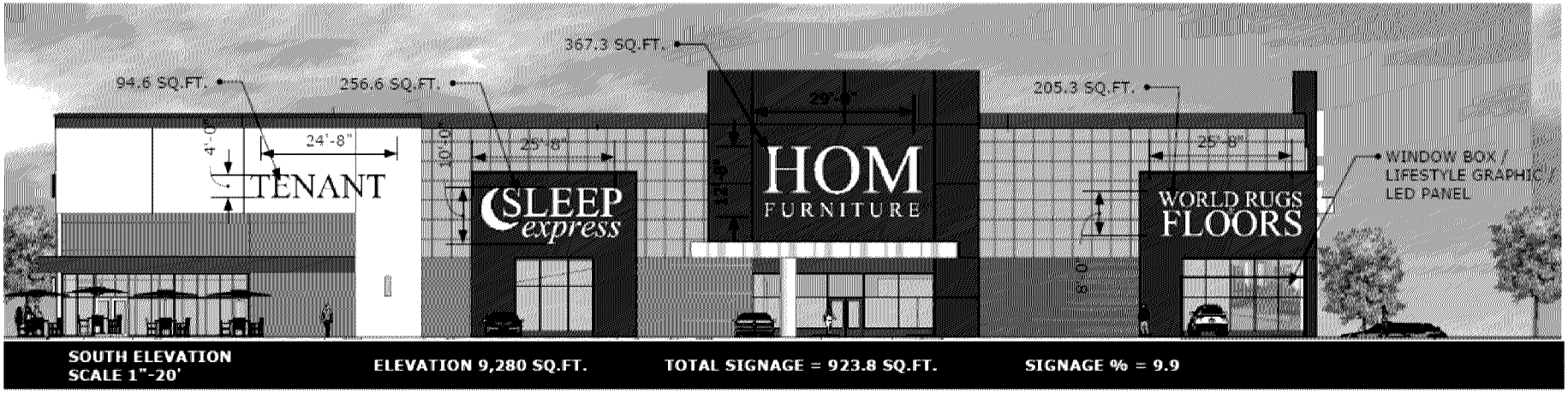
Background & Request

- **Applicant is requesting approval of:**

  Applicant is requesting that City Council consider *Nichiha* a Class I material in this particular application

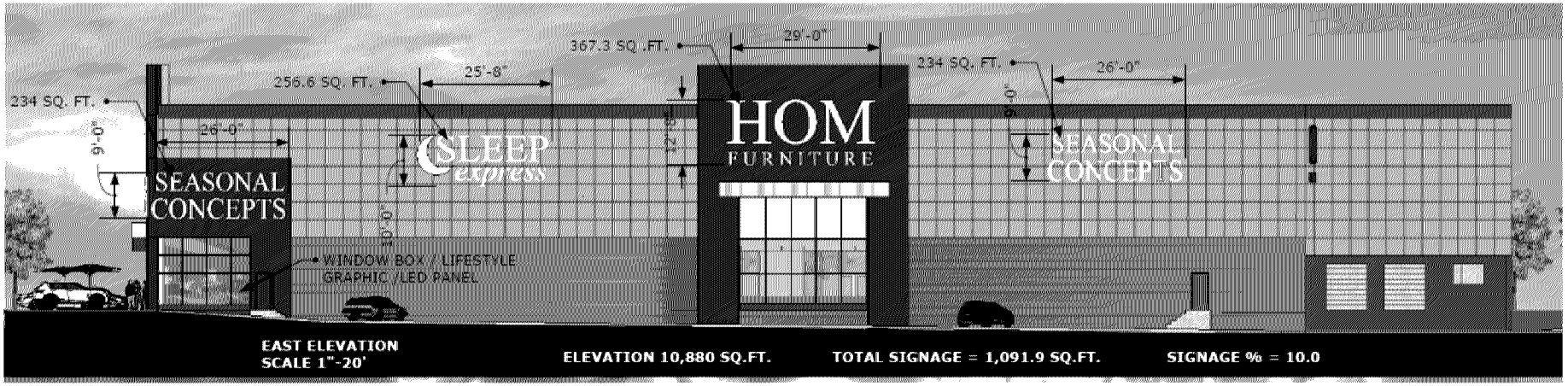
  - Resolution regarding the use of certain exterior materials in the renovation of the former Kohl's building (2501 County Road 10)
  - This request is associated with Applicant's use of exterior building materials on the site.
    - Shingle Creek Crossing PUD requires a minimum ratio of 50% Class I materials and 50% Class II materials per each face of the building (north, south, east, west)
    - **February 13, 2017 –** City Council approved Resolution No. 2017-25, which approved the development, as well as an allowance for the reduction of the amount of Class I materials on the north side elevation *only*
    - Current proposed architectural renderings note that the south side elevation is deficient by **13%** due to the use of Nichiha (considered Class II per Shingle Creek Crossing *Architectural Design Guidelines*)
    - Nichiha is a fairly new material that can be distinguished from other types of fiber board cement by how it is manufactured
    - Planning Commission and City Council have the discretion to allow other types of materials as a Class I in certain instances

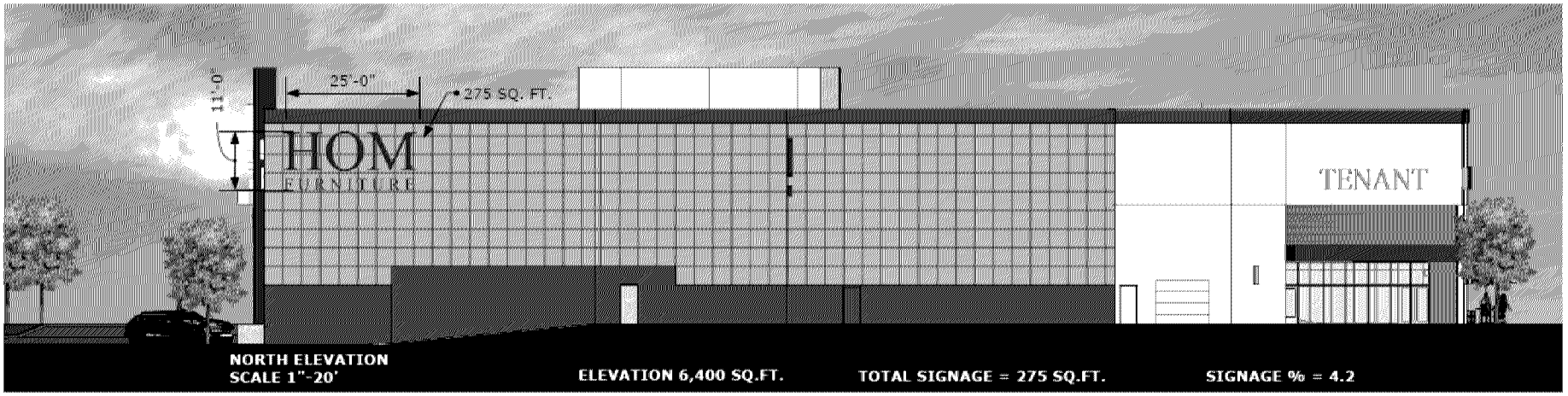
Approved Elevations (2017)



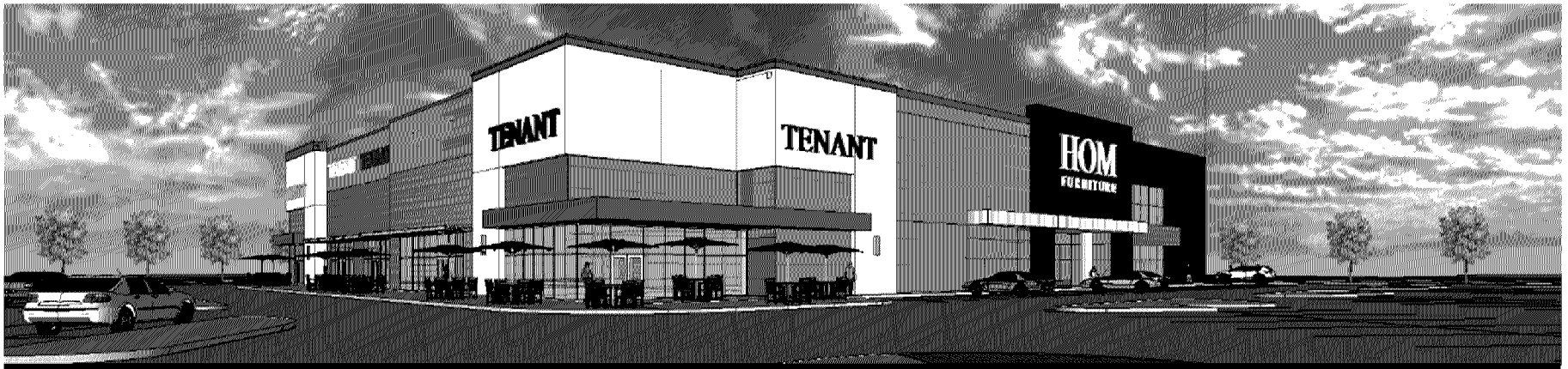


Approved Elevations (2017)



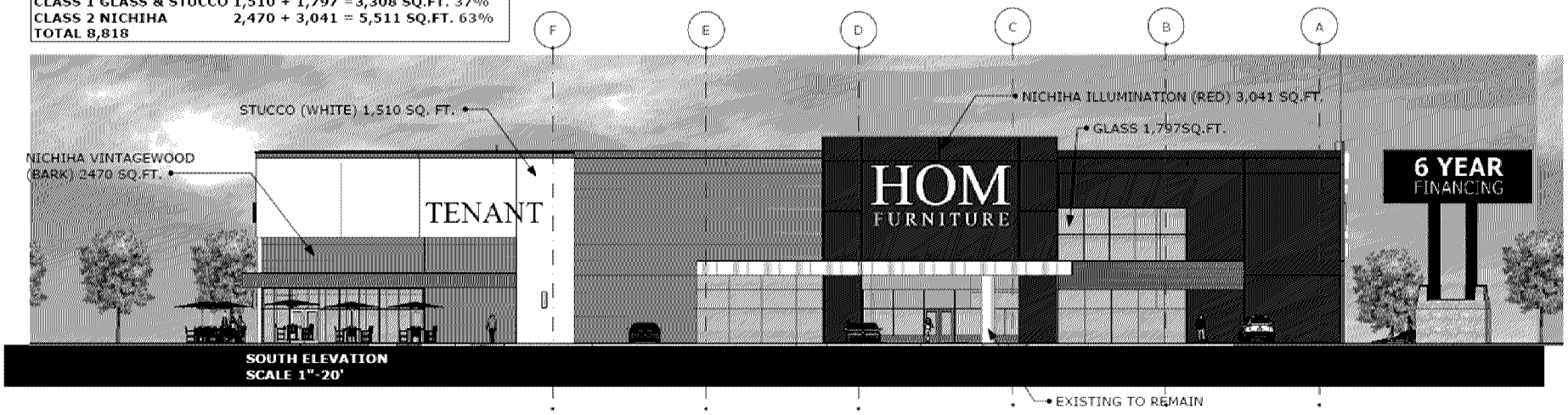


Proposed Elevations (2018)- South



VIEW FROM SOUTH WEST

SOUTH ELEVATION		
CLASS 1 GLASS & STUCCO	1,510 + 1,797 =	3,308 SQ.FT. 37%
CLASS 2 NICHIHA	2,470 + 3,041 =	5,511 SQ.FT. 63%
TOTAL 8,818		



SOUTH ELEVATION
SCALE 1"-20'

Proposed Elevations (2018) - East



Proposed Elevations (2018) -West



VIEW FROM BASS LAKE RD

WEST ELEVATION		
CLASS 1 GLASS & STUCCO	1,704 + 2,718 = 4,422 SQ.FT.	52%
CLASS 2 NICHIHA	1,231 + 2,822 = 4,053 SQ.FT.	48%
TOTAL 8,475 SQ.FT.		



WEST ELEVATION
SCALE 1"=20'

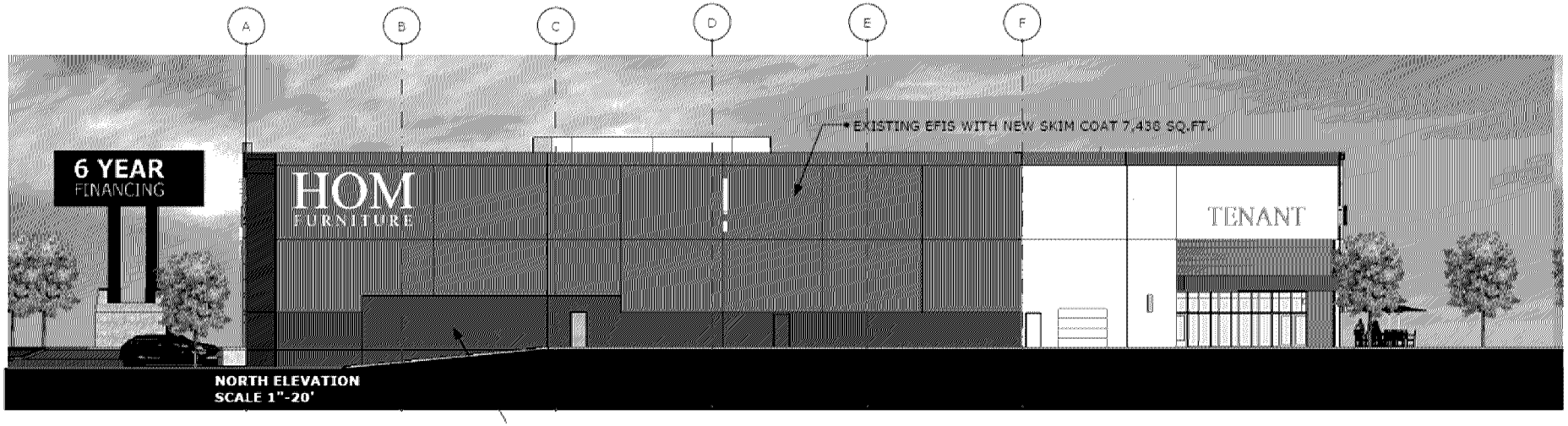
Proposed Elevations (2018) - North



VIEW FROM HWY 100



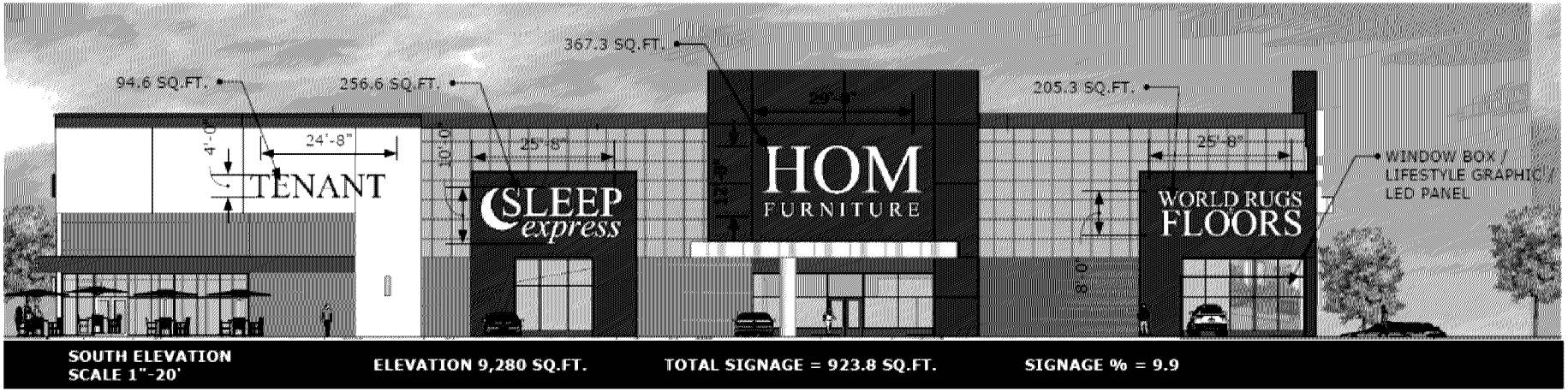
VIEW FROM BASS LAKE RD



NORTH ELEVATION
SCALE 1"-20'

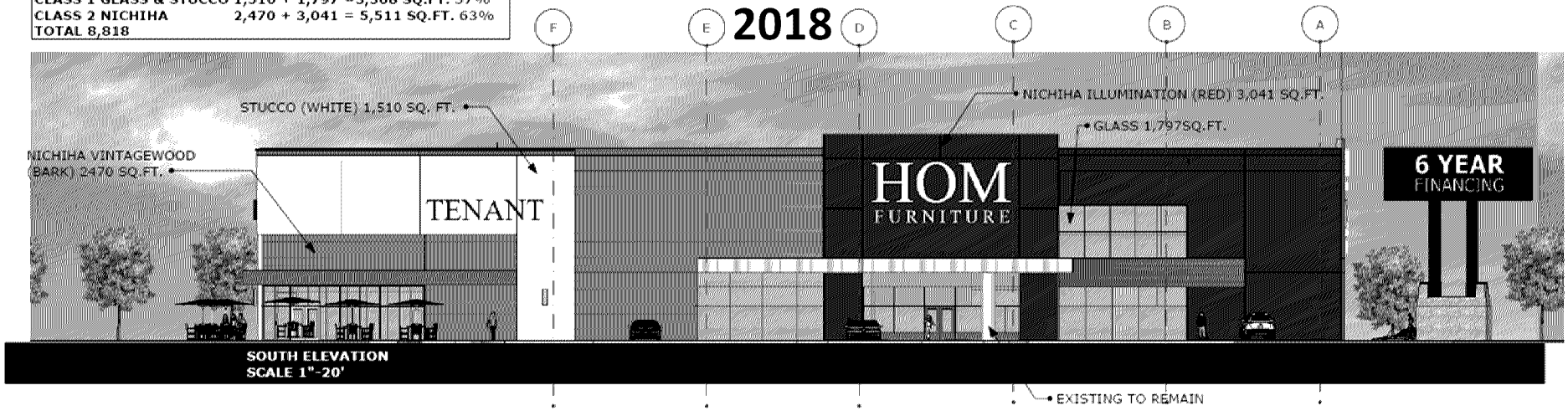
Comparison of South Elevation (2017 vs. 2018)

2017



SOUTH ELEVATION
CLASS 1 GLASS & STUCCO 1,510 + 1,797 =3,308 SQ.FT. 37%
CLASS 2 NICHIHA 2,470 + 3,041 = 5,511 SQ.FT. 63%
TOTAL 8,818

2018



Summary and Recommendation

Summary

- Planning Commission received and reviewed the staff report and plans at their April 26th meeting
  - No notice was provided in the Brooklyn Center *Sun Post* and no mail notices were sent out as this request does not require a public hearing
  - John Pierce, representative for HOM Furniture, was in attendance and spoke with the Commissioners regarding the proposed use of Nichiha and brought samples for Commissioners to review.
  - No other comments (for or against) were received.
  - **The Planning Commission voted unanimously (5-0) to approve PC Resolution No. 2018-007 and recommended City Council approval of the request.**

Recommendation

- It is recommended that the City Council, following consideration of this item, adopt the resolution regarding the approved use of certain exterior materials in the renovation of the former Kohl's building, located at 2501 County Road 10 and as identified on the architectural renderings dated February 26, 2018.
  - Approval is subject to the Applicant/Property Owner complying with the conditions outlined in the attached draft Planning Commission resolution.

City Council Agenda Item No. 10a

City Council Agenda Item No. 10a
#1

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 700 66th Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 700 66th Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a 24 building, 92 unit multifamily property. The previous rental license was a Type III Rental License. This property qualifies for a Type IV Rental License based on four-hundred ninety-eight (498) (5.4/unit) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

<u>Current rental license approval activities for license expires on 07/31/2018:</u>

10-17-2017	The Owner, James E. Wiensch, applied for renewal of the rental dwelling license for 700 66th Ave N, a single family dwelling.
12-07-2017	An initial rental license inspection was conducted and failed. 498 property code violations were cited, see attached rental criteria.

COUNCIL ITEM MEMORANDUM

01-30-2018	A second rental inspection was conducted and failed. A reinspection fee of $1,700 was charged.
01-31-2018	The previous rental license expired.
02-21-2018	A third rental inspection was conducted and failed. A reinspection fee of $300 was charged.
03-07-2018	A fourth rental inspection was conducted and failed. A $50 reinspection fee was charged.
03-09-2018	The $2,000 reinspection fee was paid.
03-12-2018	A fifth rental inspection was conducted and passed, however. A $50 reinspection fee is still owed.
03-16-2018	The $50 reinspection fee was paid.
03-21-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
03-27-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-10-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and

regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic

Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

BROOKLYN CENTER
AT THE CENTER

APR 10 2018

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	708 66th Ave N Brooklyn Center Mn 55430		
Owner's Name(s):	James E Wiensch	Local Agent:	Daralynn Zahn
Owner's Address:	8162 Bloomington Ave S Bloomington MN 55425	Agent Address:	708 66th Ave N Brooklyn Center Mn 55430
Owner's Phone:	952-854-7788	Agent's Phone:	763-561-1922
Owner's Email:	sgann@jimbernco.com	Agent's Email:	brooklyncentermn@jimbernco.com
Current Expiration Date:	01/31/2018	Pending Expiration Date:	07/31/2018

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development

www.cityofbrooklyncenter.org

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708 66th Ave N
Brooklyn Center Mn 55430

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[X] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[X] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[X] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[X] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [X] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ (Date)
- [ ] Owner or agent plans to attend training at : _____ (Name of City)

[X] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[X] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [X] Security Assessment is completed
- [ ] Security Assessment is scheduled for _____

708 66th Ave N
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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[X] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[X] 2) **Registration is not required to attend**, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[X] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: May and July

The following actions are required for Multi-Family properties with four (4) or more units.

[X] 1) Conduct resident training annually to include crime prevention techniques.

[X] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	January 2018	N	August 2040
Water Heater	February 2018	N	January 2040
Kitchen Appliances	March 2018	N	February 2025
Laundry Appliances	n/a		
Smoke Alarms/ Carbon Monoxide Alarms	March 2018	N	June 2018
Exterior Items			
Paint/Siding	May 2017	G	July 2018
Windows	May 2015	G	July 2020
Roof	November 2017	G	November 2020
Garage	May 2017	G	July 2020
Driveway	July 2017	G	August 2025
Fence	November 2009	G	August 2019
Sidewalks	July 2017	G	July 2018
Shed	May 2017	G	July 2018

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [X] 1) Check-In with tenants every 30-days.
- [X] 2) Drive by property to check for possible code violations.
- [X] 3) Evict tenants in violation of the lease or any addendums.
- [X] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [X] 5) Have no repeat code violations previously documented with the past year.
- [X] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [X] 1) Provide lawn/snow service.
- [X] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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BROOKLYN CENTER AT THE CENTER

Community Development

708 66th Ave N
Brooklyn Center Mn 55430

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Daralynn Zahn

Owner or Agent Name and Title (Please Print)

Daralynn Zahn — 4/10/18

Owner or Agent Signature — *Date*

Scott Gann

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Scott Gann — 4/10/18

Additional Owner or Agent Signature (If Applicable) — *Date*

City Staff Only

D K Boe CS — 4/23/2018

Police Department — *Date*

[illegible] — 4/16/18

Community Development — *Date*

City Council Agenda Item No. 10a
#2

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 3218 63rd Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 3218 63rd Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is single family property. The previous rental license was a Type II Rental License. This property qualifies for a Type IV Rental License based on nine (9) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

<u>Current rental license approval activities for license expires on 05/31/2018:</u>

10-16-2017	The Owner, Madison Avenue Homes LLC, applied for renewal of the rental dwelling license for 3218 63rd Ave N, a single family dwelling.
11-17-2017	An initial rental license inspection was conducted and failed. 9 property code violations were cited, see attached rental criteria.
11-30-2017	The previous rental license expired.

COUNCIL ITEM MEMORANDUM

12-18-2017	A second rental inspection was conducted and failed. A $100 reinspection fee was charged.
01-04-2018	A third rental inspection was conducted and failed. A $100 reinspection fee was charged.
01-19-2018	A fourth rental inspection was conducted and failed. A $100 reinspection fee was charged.
02-01-2018	A fifth rental inspection was conducted and passed, however, $300 reinspection fee was still owed.
02-01-2018	The $300 reinspection fee was paid.
02-21-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
02-21-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-16-2018	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-19-2018	A $300 Administrative Citation was issued for operating without a rental license.
03-21-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for

a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

COUNCIL ITEM MEMORANDUM

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

APR 0 2 2018

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	3218 63rd Ave N		
Owner's Name(s):	Madison Avenue	Local Agent:	Veronica Mendez
Owner's Address:	2400 Blaisdell Ave #300 Minneapolis, MN 55404	Agent Address:	2400 Blaisdell Ave #300 Minneapolis, MN 55404
Owner's Phone:	612-870-6294	Agent's Phone:	612-481-1056
Owner's Email:	jandmhomesii@gmail.com	Agent's Email:	jandmhomesii@gmail.com
Current Expiration Date:	11-30-17	Pending Expiration Date:	5-31-18

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[X] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for _____
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

[x] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[x] Security Assessment is completed

[x] Security Assessment is scheduled for 10/11/2012

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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[x] 2) **Registration is not required to attend**, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: 5/10/18 and 7/12/18

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	2/2010	G	1/20206
Water Heater	1/2012	G	1/2019
Kitchen Appliances	5/2013	G	05/2025
Laundry Appliances	7/2013	G	8/2022
Smoke Alarms/ Carbon Monoxide Alarms	3/1/17	G	3/2020
Exterior Items			
Paint/Siding	3/2016	G	12/20
Windows	3/2007	G	12/20
Roof	7/2013	G	12/20
Garage	7/2013	G	12/20
Driveway	7/2010	G	12/20
Fence	-	G	-
Sidewalks	-	G	-
Shed	-	G	-

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Veronica Mendez

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

3/30/2018

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

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City Council Agenda Item No. 10a
#3

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5207 Boulder La

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 5207 Boulder La. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is single family property. The previous rental license was a Type I Rental License. This property qualifies for a Type IV Rental License based on eleven (11) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

<u>Current rental license approval activities for license expires on 11/30/2018:</u>

02-14-2018	The Owner, Herman Capital Partners II, applied for renewal of the rental dwelling license for 5207 Boulder La, a single family dwelling.
02-27-2018	An initial rental license inspection was conducted and failed. 11 property code violations were cited, see attached rental criteria.
03-29-2018	A second rental inspection was conducted and passed.

COUNCIL ITEM MEMORANDUM

04-06-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
04-06-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-12-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin approximately three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the

expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1

	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

BROOKLYN CENTER
AT THE CENTER

Community Development

Rental License Plan

APR 12 2018

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	5207 Boulder lane		
Owner's Name(s):	Ross Herman	Local Agent:	Lenny Frolov
Owner's Address:	3539 Douglas dr Crystal, MN 55422	Agent Address:	7040 Lakeland ave n #112 Brooklyn Park, MN 55428
Owner's Phone:	612-386-6796	Agent's Phone:	612-242-9073
Owner's Email:	ross.herman@hermanrealtyinc.com	Agent's Email:	homes@lennyfrolov.com
Current Expiration Date:	5/31/18 ~~2T~~	Pending Expiration Date:	11/30/18 ~~20~~

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan** (Type IV). In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[X] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[X] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[X] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[X] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [X] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ Date
- [ ] Owner or agent plans to attend training at : _____ Name of City

[X] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[X] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [X] Security Assessment is completed was done 12/5/14
- [X] Security Assessment is scheduled for _____

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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[X] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[X] 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[X] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: MAY 10TH and JULY 12TH

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	2000	G	2025
Water Heater	2010	G	2025
Kitchen Appliances	2016	G	2020
Laundry Appliances	2010	G	2020
Smoke Alarms/ Carbon Monoxide Alarms	2017	G	2027
Exterior Items			
Paint/Siding	1980	F	2020
Windows	1980	F	2025
Roof	2000	G	2030
Garage	1960	G	2050
Driveway	1960	F	2040
Fence			
Sidewalks			
Shed			

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [X] 1) Check-in with tenants every 30-days.
- [X] 2) Drive by property to check for possible code violations.
- [X] 3) Evict tenants in violation of the lease or any addendums.
- [X] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [X] 5) Have no repeat code violations previously documented with the past year.
- [X] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [X] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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5207 Boulder lane

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Lenny Frolov

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

4/13/18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

City of Brooklyn Center—Community Development

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City Council Agenda Item No. 10a
#4

COUNCIL ITEM MEMORANDUM

DATE: May 14 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5715 Emerson Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 5715 Emerson Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is single family property. The previous rental license was a Type II Rental License. This property qualifies for a Type IV Rental License based on thirteen (13) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

<u>Current rental license approval activities for license expires on 05/31/2018:</u>

10-16-2017	The Owner, J and M Homes II, Inc., applied for renewal of the rental dwelling license for 5715 Emerson Ave N, a single family dwelling.
11-16-2017	An initial rental license inspection was conducted and failed. 13 property code violations were cited, see attached rental criteria.
11-30-2017	The previous rental license expired.

COUNCIL ITEM MEMORANDUM

12-18-2017	A second rental inspection was conducted and passed with weather deferral.
01-04-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
01-04-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-23-2017	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-19-2018	A $300 Administrative Citation was issued for operating without a rental license.
03-21-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an

opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification

inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes**

COUNCIL ITEM MEMORANDUM

		(Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

APR 0 2 2018

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	5715 Emerson Ave N		
Owner's Name(s):	J and M Homes II	Local Agent:	Veronica Mendez
Owner's Address:	2400 Blaisdell Ave #300 Minneapolis, MN 55404	Agent Address:	2400 Blaisdell Ave #300 Minneapolis, MN 55404
Owner's Phone:	612-870-6294	Agent's Phone:	612-481-1056
Owner's Email:	jandmhomesii@gmail.com	Agent's Email:	jandmhomesii@gmail.com
Current Expiration Date:	11-30-17	Pending Expiration Date:	5-31-18

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development

www.cityofbrooklyncenter.org

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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[x] 2) **Registration is not required to attend**, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: 5/10/18 and 7/12/18

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	1/2009	G	1/20205
Water Heater	1/2012	G	1/2019
Kitchen Appliances	7/2014	G	05/2025
Laundry Appliances	8/2015	G	8/2022
Smoke Alarms/ Carbon Monoxide Alarms	3/2017	G	3/2020
Exterior Items			
Paint/Siding	2/2016	G	12/20
Windows	5/2007	G	12/20
Roof	8/2012	G	12/20
Garage	8/2010	G	12/20
Driveway	7/2007	G	12/20
Fence	-	G	-
Sidewalks	7/2010	G	7/2025
Shed	-	G	-

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Veronica Mendez

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

3/30/2018

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

CRS

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

City of Brooklyn Center—Community Development

www.cityofbrooklyncenter.org

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City Council Agenda Item No. 10a
#5

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 4201 Lakeside Ave #104

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 4201 Lakeside Ave #104. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a new rental license. This is a single family property. This property qualifies for a Type IV Rental License based on thirty-two (32) property code violations found during the initial rental license inspection.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

The following is a brief history of the license process actions:

05-16-2017	The Owner, Minneapolis Property, LLC | Jane Green, applied for an initial rental dwelling license for 4201 Lakeside Ave #104, a single family property.
06-14-2017	An initial rental license inspection was conducted. 32 property code violations were cited, see attached rental criteria.
07-20-2017	A second rental inspection was conducted and failed. Property Manager denied access for inspection. $100 re-inspection fee was charged.

COUNCIL ITEM MEMORANDUM

07-24-2017	A third rental inspection was conducted and failed. Additional property code violations were found. $100 reinspection fee charged.
08-03-2017	A complaint inspection/fourth rental license inspection was conducted and failed. Additional code violations were found. $200 reinspection fee is owed.
08-07-2017	The $200 re-inspection fee was paid.
08-23-2017	A fifth rental inspection was conducted and failed. Three violations still not corrected. Since this is a follow-up to new code violations, no reinspection fee is charged.
09-07-2017	A sixth rental inspection was conducted and failed. There was no access to conduct the rental inspection. $100 re-inspection fee is charged.
09-21-2017	A seventh rental inspection was conducted and failed. Met with manager who indicated they are not done remodeling and violations had not been corrected. Rental inspection rescheduled for 30 days. $100 reinspection fee was charged.
10-12-2017	The $200 re-inspection fee was paid.
10-23-2017	An eighth rental inspection was conducted and passed.
11-09-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
11-27-2018	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-08-2018	A Mitigation Plan was submitted. The Mitigation Plan submitted was incomplete and staff requested for a new plan to be submitted.
03-28-2018	A $300 Administrative Citation was issued for operating without a rental license.
04-10-2018	A new Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin in approximately three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8

	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	4201 Lakeside Ave. #104 Brooklyn Center, MN 55429		
Owner's Name(s):	Minneapolis Property, LLC	Local Agent:	Lion Rock Properties
Owner's Address:	5720 Brooke Dr. Edina MN 55439	Agent Address:	5871 Cedar Lake Rd. #103 St. Louis Park, MN 55416
Owner's Phone:	952-994-8548	Agent's Phone:	952-303-5982
Owner's Email:	janegreen70@hotmail.com	Agent's Email:	info@Lrprop.com
Current Expiration Date:		Pending Expiration Date:	

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

BROOKLYN CENTER AT THE CENTER

Community Development

4201 Lakeside Ave. #104
Brooklyn Center, MN 55429

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[X] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[X] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[X] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[X] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mnapa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[X] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for June 2014 & May 2015
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

[ ] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[X] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[X] Security Assessment is completed

[ ] Security Assessment is scheduled for January 12, 2018

4201 Lakeside Ave. #104
Brooklyn Center, MN 55429

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[X] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[X] 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[X] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: May 2018 and July 2018

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

BROOKLYN CENTER AT THE CENTER

Community Development

4201 Lakeside Ave. #104
Brooklyn Center, MN 55429

Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	Not In Unit		
Water Heater	Not In Unit		
Kitchen Appliances	Stove	N	Replaced Fall 2017
Laundry Appliances	Not in Unit		
Smoke Alarms/ Carbon Monoxide Alarms	All Replaced	N	Replaced Fall 2017
Exterior Items			
Paint/Siding	HOA		HOA Resonsibility
Windows	HOA		HOA Resonsibility
Roof	HOA		HOA Resonsibility
Garage	HOA		HOA Resonsibility
Driveway	HOA		HOA Resonsibility
Fence	HOA		HOA Resonsibility
Sidewalks	HOA		HOA Resonsibility
Shed			

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

4201 Lakeside Ave. #104
Brooklyn Center, MN 55429

Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [X] 1) Check-in with tenants every 30-days.
- [X] 2) Drive by property to check for possible code violations.
- [X] 3) Evict tenants in violation of the lease or any addendums.
- [X] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [X] 5) Have no repeat code violations previously documented with the past year.
- [X] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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BROOKLYN CENTER
AT THE CENTER

Community Development

4201 Lakeside Ave. #104
Brooklyn Center, MN 55429

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Alex Graye - Lion Rock Properties
Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

4.6.18
Date

Additional Owner or Agent Name and Title (If Applicable) (Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

5-4-18
Date

Community Development

HSA Comm Std Sign

4/23/18
Date

City Council Agenda Item No. 10a
#6

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5820 Logan Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 5820 Logan Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is single family property. The previous rental license was a Type I Rental License. This property qualifies for a Type IV Rental License based on twelve (12) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

<u>Current rental license approval activities for license expires on 07/31/2018:</u>

11-07-2017	The Owner, Farnaz Toussi, applied for renewal of the rental dwelling license for 5820 Logan Ave N, a single family dwelling.
12-12-2017	An initial rental license inspection was conducted and failed. 12 property code violations were cited, see attached rental criteria.
01-16-2018	A second rental inspection was conducted and passed.
01-31-2018	The previous rental license expired.

COUNCIL ITEM MEMORANDUM

02-06-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
02-06-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-19-2018	A $300 Administrative Citation was issued for operating without a rental license.
03-28-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and

seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria,

perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35

Decrease 1 Category	1-2	Greater than 1	but not more than 3
	3-4 units	Greater than 0.25	but not more than 1
	5 or more units	Greater than 0.35	but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3	
	3-4 units	Greater than 1	
	5 or more units	Greater than 0.50	

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

BROOKLYN CENTER
AT THE CENTER

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	5820 Logan Ave North		
Owner's Name(s):	Farnaz Toussi	Local Agent:	
Owner's Address:	P.O.BOX 14633 Minneapolis, MN 55414	Agent Address:	
Owner's Phone:	(612)501-5712	Agent's Phone:	
Owner's Email:	shawndlh@ureach.com	Agent's Email:	
Current Expiration Date:	01/31/2018	Pending Expiration Date:	7/31/18

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[x] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for 02/2011
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

[x] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[x] Security Assessment is completed

[ ] Security Assessment is scheduled for _____

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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[x] 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: May and July

The following actions are required for Multi-Family properties with four (4) or more units.

[x] 1) Conduct resident training annually to include crime prevention techniques.

[x] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	Ongoing	F	2018
Water Heater	2010	F	2020
Kitchen Appliances	2014	F	2024
Laundry Appliances	NA		NA
Smoke Alarms/ Carbon Monoxide Alarms	2016	G	2026
Exterior Items			
Paint/Siding	2016	G	2026
Windows	2004	G	2024
Roof	2010	G	2040
Garage	NA		NA
Driveway	NA		NA
Fence	NA		NA
Sidewalks	NA		NA
Shed	NA		NA

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [x] 1) Provide lawn/snow service.
- [x] 2) Provide garbage service.
- [ ] 3) Install security system.
- [x] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

FARAZ TAHIR

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

03/21/2018

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

City Council Agenda Item No. 10a
#7

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 7006 Morgan Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 7006 Morgan Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is single family property. The previous rental license was a Type III Rental License. This property qualifies for a Type IV Rental License based on eighteen (18) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

<u>Current rental license approval activities for license expires on 07/31/2018:</u>

11-07-2017	The Owner, Hesham Abdel Hakim, applied for renewal of the rental dwelling license for 7006 Morgan Ave N, a single family dwelling.
11-30-2017	An initial rental license inspection was conducted and failed. 18 property code violations were cited, see attached rental criteria.
01-03-2018	A second rental inspection was conducted and passed.

COUNCIL ITEM MEMORANDUM

01-18-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
01-18-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-26-2018	A Mitigation Plan was submitted.
01-31-2018	The previous rental license expired.
02-07-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and

seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria,

perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35

Decrease 1 Category	1-2	Greater than 1	but not more than 3
	3-4 units	Greater than 0.25	but not more than 1
	5 or more units	Greater than 0.35	but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3	
	3-4 units	Greater than 1	
	5 or more units	Greater than 0.50	

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

JAN 26 2018

[ ] Action Plan—Type III (1 Year) [x] Mitigation Plan—Type IV (6 Months)

Property Address:	7006 Morgan Ave N Brooklyn Center, MN 55438		
Owner's Name(s):	Hesham Youssef Omar Abdel Hakim	Local Agent:	Hany Omar
Owner's Address:	741 Kennaston Drive NE Fridley, MN 55432	Agent Address:	6207 Heather Place NE Fridley, MN 55432
Owner's Phone:		Agent's Phone:	(612) 730-7424
Owner's Email:	homar@americana-food.com	Agent's Email:	hanyomar02@gmail.com
Current Expiration Date:	1/31/2019	Pending Expiration Date:	7/31/2018

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

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7006 Morgan Ave N
Brooklyn Center, MN 55438

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [x] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for 5/22/12 (Date)
- [ ] Owner or agent plans to attend training at : _____ (Name of City)

[x] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [x] Security Assessment is completed 11/28/16
- [ ] Security Assessment is scheduled for _____

BROOKLYN CENTER AT THE CENTER

Community Development

7006 Morgan Ave N
Brooklyn Center, MN 55438

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[x] 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: Jan 11 and March 8

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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BROOKLYN CENTER AT THE CENTER

Community Development

7006 Morgan Ave N
Brooklyn Center, MN 55438

Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	June 2015	G	May 2025
Water Heater	May 2016	G	May 2023
Kitchen Appliances	March 2017	G	March 2027
Laundry Appliances	June 2015	G	May 2022
Smoke Alarms/ Carbon Monoxide Alarms	Jan 2018	G	Jan 2019
Exterior Items			
Paint/Siding	April 2016	G	May 2021
Windows	June 2015	G	May 2025
Roof	June 2013	G	June 2030
Garage	May 2016	G	May 2026
Driveway	NA	F	May 2028
Fence	June 2013	G	June 2025
Sidewalks	NA		
Shed	NA		

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Brooklyn Center, MN 55438

Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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BROOKLYN CENTER AT THE CENTER

Community Development

7006 Morgan Ave N
Brooklyn Center, MN 55438

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Hany Omar

Owner or Agent Name and Title (Please Print)

hany.y.omar Digitally signed by hany.y.omar Date: 2018.01.27 23:07:03 -06'00'

Owner or Agent Signature

1/27/2018

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

2/7/2018

Date

Community Development

2/5/18

Date

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City Council Agenda Item No. 10a
#8

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 1510 69th Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 1510 69th Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a 1 building, 4 unit multifamily property. The previous license was a Type IV Rental License issued on November 13, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The requirements of the Mitigation Plan were met for the previous license. However, the property qualifies for a Type IV Rental License based on thirteen (13) (3.3/unit) property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. Therefore, according to City Ordinance, based on the number of property code violations, the license category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental License to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

The following is a brief history of the license process actions.

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license that expires 10/31/2018:

01-12-2018	The owner, Marsha Ann Darnell, applied for renewal of the rental dwelling license for 1510 69th Ave N, a 1 building, 4-unit multifamily property.
01-26-2018	An initial rental license inspection was conducted and failed. Thirteen (3.3/unit) property code violations were cited, see attached rental criteria.
03-23-2018	A second rental inspection was conducted and failed. A $100 reinspection fee was charged.
04-04-2018	The $100 reinspection fee was paid.
04-06-2018	A third rental inspection was conducted and passed.
04-24-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-24-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
04-30-2018	The previous Type IV Rental License expired.
05-02-2018	A Mitigation Plan was submitted.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018

Prior Type IV Rental License approval activities for license that expired on 04/30/2018:

07-18-2017	The Owner, Marsha Ann Darnell, applied for renewal of the rental dwelling license for 1510 69th Ave N, a 1 building, 4-unit multifamily property.
08-15-2017	An initial rental license inspection was conducted and failed. 15 property code violations (3.75/unit) were cited, see attached rental criteria.
09-15-2017	A second rental inspection was conducted and passed.
10-04-2017	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
10-04-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
10-11-2017	A Mitigation Plan was submitted.
10-18-2017	The Mitigation Plan was finalized.
10-31-2017	The previous rental license expired.
11-06-2017	A letter was sent to the owner notifying that the hearing before the Council will be held November 13, 2017.

If approved, after six months, a new rental license is required. The license process will begin in approximately three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

COUNCIL ITEM MEMORANDUM

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4

	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 1510 69th Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 1510 69th AVENUE NORTH

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 1510 69th Avenue N, was issued a Type IV Rental License on November 13, 2017; and

WHEREAS, the property qualifies for a Type IV Rental License based on the number of property code violations (13) and validated police nuisance incidents (zero); and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License to complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and complete security improvements; and City Ordinance Section 12-913 requires submittal of monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 1510 69th Avenue N, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

BROOKLYN CENTER
AT THE CENTER

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

RECEIVED
MAY - 2 2018

☐ **Action Plan—Type III (1 Year)** ☑ **Mitigation Plan—Type IV (6 Months)**

Property Address:	1510 69th Ave. N. Brooklyn Center, MN 55430		
Owner's Name(s):	Marsha Darnell	Local Agent:	
Owner's Address:	1510 69th Ave. N. Apt. #1 Brooklyn Center, MN 55430	Agent Address:	
Owner's Phone:	612-701-9732	Agent's Phone:	
Owner's Email:	mdarnell56@yahoo.com	Agent's Email:	
Current Expiration Date:	04/31/2018	Pending Expiration Date:	

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development

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PROPERTY ADDRESS

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

☑ 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

☑ 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

☑ 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

☑ 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

☑ Crime Free Housing training is completed

☐ Crime Free Housing training is scheduled for _____
Date

☐ Owner or agent plans to attend training at : _____
Name of City

☑ 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

☑ 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

☐ 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

☑ Security Assessment is completed

☐ Security Assessment is scheduled for _____

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PROPERTY ADDRESS

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

☑ 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

☑ 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

☑ 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: 5/10/2018 and 7/12/2018

The following actions are required for Multi-Family properties with four (4) or more units.

☑ 1) Conduct resident training annually to include crime prevention techniques.

☑ 2) Conduct regular resident meetings.

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PROPERTY ADDRESS

Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	2002	G	2030
Water Heater	2017	N	2027
Kitchen Appliances	2016	G	2028
Laundry Appliances	1999	G	2020
Smoke Alarms/ Carbon Monoxide Alarms	2017	N	2027
Exterior Items			
Paint/Siding	1979	G	2050
Windows	2016	G	2025
Roof	1979	F	2019
Garage	NA		NA
Driveway	NA		NA
Fence	2014	G	2025
Sidewalks	1979	G	2030
Shed	NA		NA

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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PROPERTY ADDRESS

Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [x] 1) Provide lawn/snow service.
- [x] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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BROOKLYN CENTER

PROPERTY ADDRESS

Community Development

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Marsha Darnell

Owner or Agent Name and Title (Please Print)

Marsha Darnell

Owner or Agent Signature

05/01/2018

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

5-4-18

Date

Community Development

5/3/18

Date

City of Brooklyn Center—Community Development

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City Council Agenda Item No. 10a
#9

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 3141 49th Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 3141 49th Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses **to modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on March 12, 2018, on condition of adherence to the Mitigation Plan and City Ordinances.

The property would qualify for a Type I Rental License based on 1 property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. However, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to attend Owners/Managers Association Meetings and failed to turn in monthly updates. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental Property to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the continued Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

The following is a brief history of the license process actions.

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license expires on 10/31/2018:

02-14-2018	The owner, Manoj Moorjani, applied for renewal of the rental dwelling license for 3141 49th Ave N, a single family dwelling.
03-12-2018	An initial rental license inspection was conducted. One property code violations were cited, see attached rental criteria. The violation was corrected onsite.
03-27-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-27-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-31-2018	The previous rental license expired.
04-06-2018	A Mitigation Plan was submitted.
04-06-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

Prior rental license approval activities for license expires on 03/31/2018:

08-14-2017	The Owner, Manoj Moorjani, applied for renewal of the rental dwelling license for 3141 49th Ave N, a single family dwelling.
08-31-2017	An initial rental license inspection was conducted and failed. 13 property code violations were cited, see attached rental criteria.
10-31-2017	The previous rental license expired.
11-06-2017	A second rental inspection was conducted and passed.
11-22-2017	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
11-22-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
12-13-2017	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
02-07-2018	An email notice was sent to the owner to submit a mitigation plan.
02-12-2018	A Mitigation Plan was submitted.
02-23-2018	The Mitigation Plan was finalized.
03-05-2018	A $300 Administrative Citation was issued for operating without a rental license.
03-05-2018	A letter was sent to the owner notifying that the hearing before the Council will be held March 12, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for

disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

COUNCIL ITEM MEMORANDUM

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category	**Number of Units**	**Property Code Violations per**

(Based on Property Code Only)		Inspected Unit
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

COUNCIL ITEM MEMORANDUM

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 3141 49th Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 3141 49th AVENUE NORTH

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 3141 49th Avenue N, was issued a Type IV Rental License on March 12, 2018; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 3141 49th Avenue N, Brooklyn Center failed to attend Owners/Managers Association Meetings and turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 3141 49th Avenue N, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

[ ] Action Plan—Type III (1 Year) [x] Mitigation Plan—Type IV (6 Months)

Property Address:	3141 49th Ave N Brooklyn Center MN 55430		
Owner's Name(s):	Mojo Holding 4 llc	Local Agent:	Dennis Mejia
Owner's Address:	9008 Col stream LN Eden Preirie MN 55347	Agent Address:	2114 70th Ave N Brooklyn Center Mn 55430
Owner's Phone:	612 280 8666	Agent's Phone:	763 360 8174
Owner's Email:	manoj@urban-homes.net	Agent's Email:	dennis@urban-homes.net
Current Expiration Date:		Pending Expiration Date:	

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property is required to submit an Action (Type III) or Mitigation Plan (Type IV). In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development www.cityofbrooklyncenter.org
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430-2199 | Phone: (763) 563-3330 | TTY: 711 Fax: (763) 569-3360

3141 49th Ave N Brooklyn Center
MN 55430

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[x] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for 1-15-15
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

[x] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[ ] 2) **A follow-up assessment must be completed before the license expiration date to verify the security improvements have been implemented.** To schedule a follow up inspection call (763) 569-3344.

[x] Security Assessment is completed

[ ] Security Assessment is scheduled for _____

3141 49th Ave N Brooklyn Center
MN 55430

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[x] 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: 5/10/18 and 7/12/17

The following actions are required for Multi-Family properties with four (4) or more units.

[x] 1) Conduct resident training annually to include crime prevention techniques.

[x] 2) Conduct regular resident meetings.

BROOKLYN CENTER
AT THE CENTER

Community Development

3141 49th Ave N Brooklyn Center
MN 55430

Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items must have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	2010	G	01/2022
Water Heater	08/2016	G	01/2022
Kitchen Appliances	11/2016	G	01/2025
Laundry Appliances	06/2016	G	06/2018
Smoke Alarms/ Carbon Monoxide Alarms	11-2017	G	8/2018
Exterior Items			
Paint/Siding	06/2017	G	6/2020
Windows	07/2017	G	07/2030
Roof	05/2015	G	07/2025
Garage		G	07/2025
Driveway		G	2030
Fence	NA	NA	NA
Sidewalks	Na	NA	Na
Shed		F	2020

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [X] 1) Check-in with tenants every 30-days.
- [X] 2) Drive by property to check for possible code violations.
- [X] 3) Evict tenants in violation of the lease or any addendums.
- [X] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [X] 5) Have no repeat code violations previously documented with the past year.
- [X] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [X] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [X] 4) Provide maintenance service plan for appliances.
  Name of service company: service plus
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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3141 49th Ave N Brooklyn Center
MN 55430

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Dennis Mejia

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

4/6/18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

5-4-18

Date

Community Development

4/9/18

Date

City Council Agenda Item No. 10a
#10

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5420 Emerson Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 5420 Emerson Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on August 14, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The property qualifies for a Type IV Rental License based on ten (10) property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. Further, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to attend Owners/Managers Association Meetings and failed to turn in monthly updates. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental Property to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the continued Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

COUNCIL ITEM MEMORANDUM

The following is a brief history of the license process actions.

Current rental license approval activities for license that expires 05/31/2018:

08-14-2017	The owner, Christopher Raisch, applied for renewal of the rental dwelling license for 5420 Emerson Ave N, a single family dwelling.
10-20-2017	An initial rental license inspection was conducted. Ten property code violations were cited, see attached rental criteria.
11-03-2017	A second rental inspection was conducted and failed. A $100 reinspection fee was charged to the property.
11-30-2017	The previous Type IV Rental License expired.
12-05-2017	A third rental inspection was conducted and failed. Tenant denied access. A $100 reinspection fee was charged to the property. The owner called to reschedule the inspection to 12-15-2017.
12-15-2017	The owner called to reschedule the inspection due to unforeseen incident with the tenant to 1-3-2018. No reinspection fee was charged.
01-03-2018	The owner called to reschedule the inspection due to the tenant skipping out on the property.
01-19-2018	A fourth rental license inspection was conducted and failed, however, $100 reinspection fee is still owed. Total amount owed is $300.00.
01-19-2018	A $300 Administrative Citation was issued for operating without a license.
02-02-2018	A fifth rental license inspection was conducted and failed, however, $100 reinspection fee is still owed. Total amount owed is $400.00.
02-15-2018	$400 reinspection fee was paid.
02-28-2018	A sixth rental license inspection was conducted and failed. No reinspection fee will be charged since the property is vacant and owner elected to conduct a full reinspection of the property.
03-14-2018	A seventh rental inspection was conducted and passed
03-19-2018	A $600 Administrative Citation was issued for operating without a license.
03-27-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-27-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-12-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

Prior rental license approval activities for license that expires 11/30/2017:

03-22-2017	The owner, Christopher Raisch, applied for renewal of the rental dwelling license for 5420 Emerson Ave N, a single family dwelling.
04-12-2017	An initial rental license inspection was conducted and failed. Three property code violations were cited, see attached rental criteria.
05-16-2017	A second inspection was conducted and passed, however, some corrections were deferred due to weather.

COUNCIL ITEM MEMORANDUM

05-31-2017	The previous Type IV Rental License expired.
06-07-2017	A third inspection was conducted and failed, weather corrections were not made. A $100 reinspection fee was charged to the property.
06-23-2017	A fourth inspection was conducted and passed, however, fees remain unpaid
07-05-2017	A $100 reinspection fee was paid.
07-07-2017	City records indicate zero (0) validated police nuisance incidents occurred in the past twelve months.
07-07-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
07-13-2017	A Mitigation Plan was submitted.
07-31-2017	The Mitigation Plan was finalized.
08-07-2017	A letter was sent to the owner notifying that the hearing before the Council will be held August 14, 2017.

Prior rental license approval activities for license that expires 05/31/2017:

09-06-2016	The owner, Christopher Raisch, applied for renewal of the rental dwelling license for 5420 Emerson Ave N, a single family dwelling.
10-03-2016	An initial rental license inspection was conducted. Seven property code violations were cited, see attached rental criteria.
11-03-2016	A second inspection was conducted and passed.
11-14-2016	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
11-14-2016	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
11-29-2016	A Mitigation Plan was submitted.
11-30-2016	The previous Type IV Rental License expired.
12-15-2016	The Mitigation Plan was finalized.
01-02-2017	A letter was sent to the owner notifying that the hearing before the Council will be held January 09, 2017.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property	**Number of Units**	**Property Code Violations per Inspected Unit**

Code Only)		
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

COUNCIL ITEM MEMORANDUM

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 5420 Emerson Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 5420 Emerson Ave N

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 5420 Emerson Ave N, was issued a Type IV Rental License on August 14, 2017; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 5420 Emerson Ave N, Brooklyn Center failed to attend Owners/Managers Association Meetings and failed to turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 5420 Emerson Ave N, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

BROOKLYN CENTER
AT THE CENTER

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

APR 12 2018

Property Address:	5420 Emerson Ave N		
Owner's Name(s):	Christopher Raisch	Local Agent:	Christopher Raisch
Owner's Address:	3209 Roosevelt St NE St. Anthony, MN 55418	Agent Address:	3209 Roosevelt St NE St. Anthony, MN 55418
Owner's Phone:	651-323-3434	Agent's Phone:	651-323-3434
Owner's Email:	craisch@yahoo.com	Agent's Email:	craisch@yahoo.com
Current Expiration Date:	~~5/31/2018~~ 11/30/17 XT	Pending Expiration Date:	5/31/2018

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[X] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[X] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[X] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[X] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[X] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for 6/9/2011
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

[X] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[X] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[X] Security Assessment is completed

[ ] Security Assessment is scheduled for _____

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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[X] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[X] 2) **Registration is not required to attend**, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[X] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: May 10 and July 12

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	?	G	August 2025
Water Heater	?	G	August 2020
Kitchen Appliances	June 2008	G	June 2023
Laundry Appliances	June 2008	G	June 2023
Smoke Alarms/ Carbon Monoxide Alarms	Sept 2016	N	June 2026
Exterior Items			
Paint/Siding	original	F	June 2018
Windows	?	G	Sept 2028
Roof	?	G	Sept 2028
Garage	original	F	June 2030
Driveway	?	G	June 2030
Fence	?	G	June 2030
Sidewalks	?	G	June 2030
Shed	n/a		

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.

  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Christopher Raisch

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

4-8-18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

CPS

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

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City Council Agenda Item No. 10a
#11

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 6243 France Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 6243 France Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses **to modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on November 13, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The property would qualify for a Type III Rental License based on 8 property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. However, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to turn in monthly updates. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental Property to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the continued Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

The following is a brief history of the license process actions.

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license expires on 09/30/2018:

12-13-2017	The owner, RHA 3, LLC, applied for renewal of the rental dwelling license for 6243 France Ave N, a single family dwelling.
01-12-2018	An initial rental license inspection was conducted. 8 property code violations were cited, see attached rental criteria.
02-12-2018	A second inspection was conducted and failed. $100 reinspection fee was charged.
02-27-2018	A third inspection was conducted and passed, however, the reinspection fee was not paid.
03-02-2018	The $100 reinspection fee was paid.
03-27-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-27-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-31-2018	The previous rental license expired.
04-04-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

Previous rental license approval activities for license expires on 03/31/2018:

06-12-2017	The Owner, RHA 3, LLC, applied for renewal of the rental dwelling license for 6243 France Ave N, a single family dwelling.
07-06-2017	An initial rental license inspection was conducted and failed. 13 property code violations were cited, see attached rental criteria.
08-09-2017	A second rental inspection was conducted and passed.
08-24-2017	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
08-24-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
08-30-2017	A Mitigation Plan was submitted.
09-07-2017	The Mitigation Plan was finalized.
09-30-2017	The previous rental license expired.
11-06-2017	A letter was sent to the owner notifying that the hearing before the Council will be held November 13, 2017.

If approved, after six months, a new rental license is required. The license process will begin in three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

COUNCIL ITEM MEMORANDUM

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**

Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 6243 France Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 6243 FRANCE AVENUE N

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 6243 France Avenue N, was issued a Type IV Rental License on November 13, 2017; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 6243 France Avenue N, Brooklyn Center failed to turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 6243 France Avenue N, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

APR - 4 2018 Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	6243 France Ave		
Owner's Name(s):	RHA 3, LLC	Local Agent:	HavenBrook Homes, LLC
Owner's Address:	1611 County Rd B West #104 Roseville, MN, 55113	Agent Address:	1611 County Rd B West #104 Roseville, MN,. 55113
Owner's Phone:	470-268-3980	Agent's Phone:	470-268-3980
Owner's Email:	rha3@havenbrookhomes.c	Agent's Email:	mn@havenbrookhomes
Current Expiration Date:	3/3/18 AT	Pending Expiration Date:	9/30/18 AT

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

<u>Read carefully and be sure to follow instructions, otherwise your plan will not be approved.</u>

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[X] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[X] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[X] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[X] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [XX] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ Date
- [ ] Owner or agent plans to attend training at : _____ Name of City

[XX] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[X] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [X] Security Assessment is completed
- [ ] Security Assessment is scheduled for 10/25/16

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[X] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[X] 2) **Registration is not required to attend,** however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[ ] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: 05/10 and 07/12

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	08/10	G	08/25
Water Heater	06/12	G	06/22
Kitchen Appliances	06/12	G	06/27
Laundry Appliances	N/A		
Smoke Alarms/ Carbon Monoxide Alarms	07/17	G	07/18
Exterior Items			
Paint/Siding	07/00	G	07/20
Windows	07/00	G	07/30
Roof	07/05	G	07/25
Garage	08/60	G	07/25
Driveway	07/00	G	07/20
Fence	06/10	G	07/25
Sidewalks	07/00	G	07/20
Shed	N/A		

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [X] 1) Check-in with tenants every 30-days.
- [X] 2) Drive by property to check for possible code violations.
- [X] 3) Evict tenants in violation of the lease or any addendums.
- [X] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [X] 5) Have no repeat code violations previously documented with the past year.
- [X] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [X] 7) Other: Routine Maintenance

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.

  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Scott Beck - Director of operations

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

04/04/18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

City Council Agenda Item No. 10a
#12

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 6325 Kyle Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 6325 Kyle Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses **to modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on January 22, 2018, on condition of adherence to the Mitigation Plan and City Ordinances.

The property would qualify for a Type III Rental License based on 5 property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. However, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to attend Owners/Managers Association Meetings. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental Property to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the continued Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

The following is a brief history of the license process actions.

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license expires on 08/31/2018:

12-13-2017	The owner, Cuong Pham, applied for renewal of the rental dwelling license for 6325 Kyle Ave N, a single family dwelling.
01-026-2018	An initial rental license inspection was conducted. Five property code violations were cited, see attached rental criteria.
02-28-2018	A second rental inspection was conducted and failed. All corrections were made however additional violations were found during the inspection.
02-28-2018	The previous rental license expired.
03-14-2018	A third rental inspection was conducted and passed.
03-27-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-27-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-04-2018	A Mitigation Plan was submitted.
05-04-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018

Prior rental license approval activities for license expires on 02/28/2018:

06-27-2017	The Owner, Cuong Pham, applied for renewal of the rental dwelling license for 6325 Kyle Ave N, a single family dwelling.
07-17-2017	An initial rental license inspection was conducted and failed. 13 property code violations were cited, see attached rental criteria.
08-17-2017	A second rental inspection was conducted and failed. A $100 reinspection fee was charged to the property.
08-31-2017	The previous rental license expired.
09-06-2017	A third inspection was not conducted and no access was given at the time of inspection. A $100 reinspection fee was charged to the property.
09-29-2017	A fourth inspection was conducted and corrections complete; however, the reinspection fees remain. A new item was found at the inspection.
10-02-2017	The $200 in reinspection fees was paid.
10-16-2017	A fifth inspection was conducted and passed.
10-18-2017	A $300 Administrative Citation was issued for operating without a license.
11-09-2017	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
11-09-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
11-27-2017	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
12-14-2017	A Mitigation Plan was submitted.

COUNCIL ITEM MEMORANDUM

01-12-2018 A letter was sent to the owner notifying that the hearing before the Council will be held January 22, 2018.
01-16-2018 The Mitigation Plan was finalized.

If approved, after six months, a new rental license is required. The license process will begin in three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

COUNCIL ITEM MEMORANDUM

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 6325 Kyle Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 6325 KYLE AVENUE N

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 6325 Kyle Avenue N, was issued a Type IV Rental License on January 22, 2018; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 6325 Kyle Avenue N, Brooklyn Center failed to attend Owners/Managers Association Meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 6325 Kyle Avenue N, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	6325 Kyle Ave N		
Owner's Name(s):	Cuong Pham	Local Agent:	Your Home Inc
Owner's Address:	3321 Twin Court Lake Little Canada, MN 55127	Agent Address:	888 County Rd D W #304 New Brighton, MN 55112
Owner's Phone:	612-723-0821	Agent's Phone:	612-730-9086
Owner's Email:	cuong.pham@ceuticom.com	Agent's Email:	yourhomepropertymanager@gmail.com
Current Expiration Date:	2/28/2018	Pending Expiration Date:	8/31/2018

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development

www.cityofbrooklyncenter.org

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[X] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[X] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[X] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[X] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[X] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for 3/15/2018 (Date)

[ ] Owner or agent plans to attend training at : _____ (Name of City)

[X] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[X] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[X] Security Assessment is completed

[ ] Security Assessment is scheduled for _____

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[X] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[X] 2) **Registration is not required to attend**, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[X] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: ~~January 2018~~ May 2018 and March 2018

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	December 1999	G	December 2020
Water Heater	December1999	G	December 2020
Kitchen Appliances	April 2013	G	April 2019
Laundry Appliances	April 2013	G	April 2019
Smoke Alarms/ Carbon Monoxide Alarms	02/2018	N	02/2021
Exterior Items			
Paint/Siding	October 2017	G	October 2022
Windows	July 2012	F	Jyly 2020
Roof	July 2010	G	July 2030
Garage	July 2012	G	June 2020
Driveway	July 2012	G	June 2021
Fence	Agust 2010	F	August 2030
Sidewalks	July 2012	G	June 2020
Shed	July 2010	G	June 2020

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [X] 1) Check-in with tenants every 30-days.
- [X] 2) Drive by property to check for possible code violations.
- [X] 3) Evict tenants in violation of the lease or any addendums.
- [X] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [X] 5) Have no repeat code violations previously documented with the past year.
- [X] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

City of Brooklyn Center—Community Development

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6325 Kyle Ave N

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Huan Dao Property Manager

Owner or Agent Name and Title (Please Print)

Huan Dao Digitally signed by Huan Dao Date: 2018.04.18 05:36:48 -05'00'

Owner or Agent Signature

4/18/2018

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

5-4-18

Date

Community Development

5/2/18

Date

City of Brooklyn Center—Community Development

www.cityofbrooklyncenter.org

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City Council Agenda Item No. 10a
#13

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5642 Logan Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 5642 Logan Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses **to modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on November 13, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The property would qualify for a Type I Rental License based on one (1) property code violation found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. However, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to turn in monthly updates and complete security improvements. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental Property to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the continued Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

The following is a brief history of the license process actions.

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license expires on 08/31/2018:

01-04-2018	The owner, Marc Silverstein, applied for renewal of the rental dwelling license for 5642 Logan Ave N, a single family dwelling.
01-22-2018	An initial rental license inspection was scheduled and the owner called to cancel. Future failed inspections may result in $100 reinspection fee.
01-24-2018	An initial rental license inspection was conducted. One property code violations were cited, see attached rental criteria. A $100 reinspection fee was charged.
02-26-2018	A second inspection was conducted and passed.
02-28-2018	The previous rental license expired.
03-06-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-06-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-22-2018	A $100 reinspection fee was paid.
04-09-2018	A Mitigation Plan was submitted.
04-16-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

Prior rental license approval activities for license expires on 02/28/2018:

06-06-2017	The owner, Marc Silverstein, applied for renewal of the rental dwelling license for 5642 Logan Ave N, a single family dwelling.
06-27-2017	An initial rental license inspection was conducted. Two property code violations were cited, see attached rental criteria.
08-31-2017	The previous Type IV Rental License expired.
09-05-2017	A second inspection was conducted and failed; no access was given at time of inspection. A $100 reinspection fee was charged to the property.
09-19-2017	A third inspection was conducted and corrections complete; however, the reinspection fees remain unpaid.
09-20-2017	The $100 reinspection fee was paid and the rental license passed.
10-04-2017	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
10-04-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
10-17-2017	A Mitigation Plan was submitted.
10-19-2017	The Mitigation Plan was finalized.
11-06-2017	A letter was sent to the owner notifying that the hearing before the Council will be held November 13, 2017.

Prior rental license approval activities for license expires on 08/31/2017

07-19-2016	The Owner, Marc Silverstein, applied for an initial rental dwelling license for 5642 Logan Ave N, a single family dwelling.

COUNCIL ITEM MEMORANDUM

08-15-2016	An initial rental license inspection was not conducted; no access at time of inspection.
08-29-2016	An initial rental license inspection was conducted. 11 property code violations were cited, see attached rental criteria.
09-22-2016	The $100 reinspection fee was paid.
10-17-2016	A second inspection was conducted and passed.
11-14-2016	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
12-02-2016	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-04-2017	A Mitigation Plan was submitted.
01-10-2017	The Mitigation Plan was finalized.
02-03-2017	A letter was sent to the owner notifying that the hearing before the Council will be held February 13, 2017.

If approved, after six months, a new rental license is required. The license process will begin in three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic

Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 5642 Logan Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 5642 LOGAN AVE N

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 5642 Logan Avenue N, was issued a Type IV Rental License on November 13, 2017; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 5642 Logan Avenue N, Brooklyn Center failed to complete security improvements and turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 5642 Logan Avenue N, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	5642 Logan Avenue North Brooklyn Center, MN 55430		
Owner's Name(s):	MNSF T3 SPE, LLC	Local Agent:	Amanda Stinar Renters Warehouse
Owner's Address:	6386 Morrison Blvd Ste 320 Charlotte, NC 28211	Agent Address:	13200 Pioneer Tr #100 Eden Prairie, MN 55347
Owner's Phone:	704-442-1094	Agent's Phone:	952-229-8410
Owner's Email:	msilverstein@gorelickbrothers.com	Agent's Email:	gorelick@rentorswarehouse.com
Current Expiration Date:	2/28/18	Pending Expiration Date:	8/30/18

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property **is required to submit an Action (Type III) or Mitigation Plan (Type IV).** In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.

City of Brooklyn Center—Community Development www.cityofbrooklyncenter.org
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5642 Logan Avenue North
Brooklyn Center, MN 55430

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [x] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ Date
- [ ] Owner or agent plans to attend training at : _____ Name of City

[x] 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[X] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [X] Security Assessment is completed
- [ ] Security Assessment is scheduled for _____

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Brooklyn Center, MN 55430

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**

[x] 2) **Registration is not required to attend, however you must sign-in during the meeting.** A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: May and July

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct resident training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

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Community Development

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Sections B—*Long Term Capital Improvement Plan*

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items must have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing "unsure", "don't know", or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*
Item	**Last Replaced**	**Condition***	**Estimated Replacement Date**
Furnace	March 2015	f	March 2025
Water Heater	March 2015	f	March 2025
Kitchen Appliances	March 2015	f	March 2025
Laundry Appliances	March 2015	f	March 2025
Smoke Alarms/ Carbon Monoxide Alarms	March 2017	f	March 2022
Exterior Items			
Paint/Siding	March 2015	f	March 2030
Windows	March 2015	f	March 2030
Roof	March 2015	f	March 2035
Garage	July 1950	f	July 2050
Driveway	March 2015	f	March 2030
Fence	March 2015	f	March 2025
Sidewalks	March 2015	f	march 2030
Shed	June 2016	f	June 2021

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

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Brooklyn Center, MN 55430

Sections C—*Steps to Improve Management and Conditions of Property*

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.

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Community Development

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Brooklyn Center, MN 55430

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Amanda Stray Account Manager
Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

4/19/18
Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

4/23/2018
Date

Community Development

4/16/18
Date

City Council Agenda Item No. 10a
#14

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 4501 Woodbine La

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 4501 Woodbine La. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses **to modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on November 27, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The property would qualify for a Type III Rental License based on five (5) property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. However, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to attend Owners/Managers Association Meetings and to turn in monthly updates. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental Property to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the continued Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

COUNCIL ITEM MEMORANDUM

The following is a brief history of the license process actions.

Current rental license approval activities for license expires on 07/31/2018:

11-27-2017	The owner, Jared Morey, applied for renewal of the rental dwelling license for 4501 Woodbine La, a single family dwelling.
12-26-2017	An initial rental license inspection was conducted. Five property code violations were cited, see attached rental criteria.
01-31-2018	The previous rental license expired.
01-31-2018	A second rental inspection was conducted and failed. A $100 reinspection fee was charged.
03-02-2018	A $100 reinspection fee was paid.
03-12-2018	A third rental inspection was conducted and passed.
03-27-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-27-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-12-2018	A Mitigation Plan was submitted.
04-23-2018	The Mitigation Plan was finalized.
05-04-2018	A letter was sent to the owner notifying that the hearing before the Council will be held May 14, 2018.

Prior rental license approval activities for license expires on 01-31-2018:

05-01-2017	The Owner, Jerad Morey, applied for renewal of the rental dwelling license for 4501 Woodbine La, a single family dwelling.
06-07-2017	An initial rental license inspection was conducted. 17 property code violations were cited, see attached rental criteria.
07-13-2017	A second rental inspection was conducted and failed. A $100 reinspection fee was charged to the property.
07-31-2017	The previous rental license expired.
08-03-2017	A third inspection was conducted and failed. A $100 reinspection fee was charged to the property.
08-07-2017	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
08-07-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
08-15-2017	The $200 reinspection fees were paid.
08-17-2017	A fourth inspection was conducted and passed.
08-18-2017	A Mitigation Plan was submitted.
10-09-2017	The Mitigation Plan was finalized.
11-16-2017	A letter was sent to the owner notifying that the hearing before the Council will be held November 27, 2017.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

COUNCIL ITEM MEMORANDUM

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

COUNCIL ITEM MEMORANDUM

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 4501 Woodbine La

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 4501 WOODBINE LA

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 4501 Woodbine La, was issued a Type IV Rental License on November 27, 2017; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 4501 Woodbine La, Brooklyn Center failed to attend Owners/Managers Association Meetings and turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 4501 Woodbine La, Brooklyn Center, MN.

May 14, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

APR 12 2018

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan--Type III (1 Year) ☒ Mitigation Plan--Type IV (6 Months)

Property Address:	4501 Woodbine Lane		
Owner's Name(s):	Jerad and Rachel Morey Aaron Bodine - Operations Manager, VSM Real Estate	Local Agent:	VSM Real Estate, LLC
Owner's Address:	1411 Maple St Northfield, MN 55057	Agent Address:	380 Jackson St, Ste. 750 St. Paul, MN 55101
Owner's Phone:	612/860-3700	Agent's Phone:	612/353-8080
Owner's Email:	jamorey@gmail.com	Agent's Email:	abodine@vsmrealestate.com
Current Expiration Date:	1/31/18 ~~ET~~	Pending Expiration Date:	7/31/18 ET

Based on the total number of property code violations found during the initial rental license inspection and/or validated complaints during the last 12 months, the above-listed property is eligible for a Type III or Mitigation Plan (Type IV). In order to maintain this rental license, a Plan must be negotiated immediately [illegible] This Plan is a Type IV Mitigation Plan. It is a Crime Free Housing Program. It also includes measures that [illegible] City Code. The Plan allows the owner and the City to [illegible] property.

The Plan will [illegible] with the terms provided in the above property operates beyond the Plan expiration date, [illegible] action such as [illegible] citation, tenant complaint, or license review may result.

Read carefully and [illegible]

City of Brooklyn Center—Community Development

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www.cityofbrooklyncenter.org

4501 Woodbine Lane

Section A – Crime Free Housing Program Requirements

Phase I - Read and check each box.

[x] 1) A Lease Agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend or have at least one agent attend Crime Free Housing training course. Information for approved courses can be found at www.mncpa.org. If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.

[x] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for _____ Date

[ ] Owner or agent plans to attend training at _____ Name of City

[x] 5) Submit Monthly Report by the 10th day of each month. Only required for Type IV— Mitigation Plans.

Phase II - Read and check each box.

[x] 1) Complete a Security Assessment and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) A follow-up assessment must be completed before the rental application date to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[x] Security Assessment is completed

[ ] Security Assessment is scheduled for _____

4501 Woodbine Lane

Sections A—Crime Free Housing Program Requirements (continued)

Phase III - A.R.M Meeting Requirement

[x] 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. The A.R.M. meetings must be completed within the rental license period and before the license expiration date.

[x] 2) Registration is not required to attend, however you must sign-in during the meeting. A.R.M. Meetings are held in January, March, May, July, September, and November on the first Thursday of the month. Meetings start at 10am and end at 11am.

[x] 3) Write two months the owner or agent plans to attend. 5/2018 7/2018 ~~9/13/18~~ ~~11/15/18~~

Owner or agent will attend A.R.M. meetings scheduled for: _____ and _____

The following actions are required for Multi-Family properties with four (4) or more units.

[ ] 1) Conduct written training annually to include crime prevention techniques.

[ ] 2) Conduct regular resident meetings.

City of Brooklyn Center - Community Development

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4501 Woodbine Lane

Section B—Long Term Capital Improvement Plan

All components of a home will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items must have a date added for Estimated Replacement Date. Plans will not be approved if writing "unsure", "don't know", or leaving it blank. If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*
Furnace	May 2008	G	May 2024
Water Heater	Jun 2008	G	June 2024
Kitchen Appliances	Feb 2010	G	Feb 2020
Laundry Appliances	Feb 2010	G	Feb 2020
Smoke Alarms/ Carbon Monoxide Alarms	August 2017	G	Aug 2022
Exterior Items			
Paint/Siding	October 2010	G	October 2030
Windows	April 2008	G	April 2028
Roof	October 2005	G	October 2035
Garage	July 2001	G	TBD
Driveway	original to home	F	TBD
Fence	n/a		
Sidewalks	Original to house	G	TBD
Shed	n/a		

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R

4501 Woodbine Lane

Sections C—Steps to Improve Management and Conditions of Property

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- [x] 1) Check-in with tenants every 30-days.
- [x] 2) Drive by property to check for possible code violations.
- [x] 3) Evict tenants in violation of the lease or any addendums.
- [x] 4) Remain current on all utility, fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- [x] 5) Have no repeat code violations previously documented with the past year.
- [x] 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- [ ] 7) Other: _____

The following actions are optional but are suggested by the City.

- [ ] 1) Provide lawn/snow service
- [ ] 2) Provide garbage service
- [ ] 3) Install security system
- [ ] 4) Provide maintenance service plans for appliances.
  Name of service company: _____
- [ ] 5) Other: _____

The licensee must comply with the approved Plan and/or applicable City Codes. Any violations will be met with a reminder notice to comply with the rental license requirements.

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www.cityofbrooklyncenter.org

4501 Woodbine Lane

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Jerad Morey

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

4/12/18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

4/23/2018

Date

Community Development

4/16/18

Date

City Council Agenda Item No. 10b

COUNCIL ITEM MEMORANDUM

DATE: May 14, 2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Director of Community Development

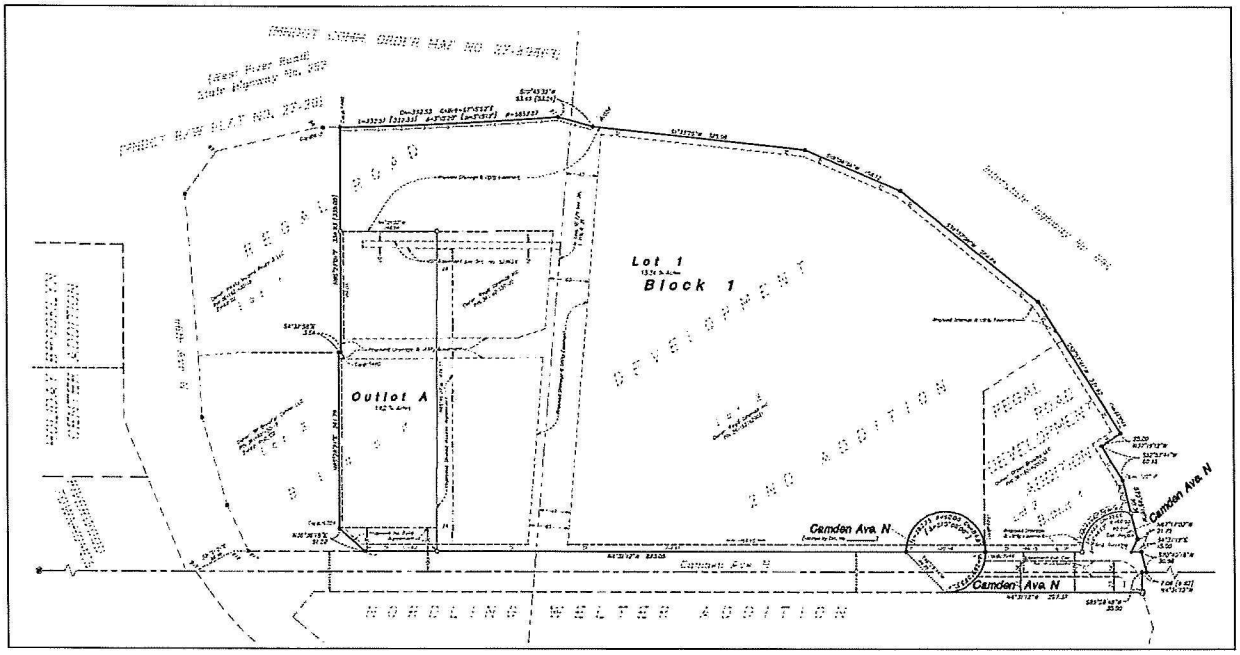
SUBJECT: Memorandum of Understanding between the City and SFG Net Lease TG Minneapolis, LLC and the Purchase of Excess Right-of-Way from the Minnesota Department of Transportation

Recommendation:

It is recommended that the City Council Approve a Resolution Approving the Cul-de-sac Memorandum of Understanding between the City and SFG Net Lease TG Minneapolis, LLC and Authoring the Purchase of Excess Right-of-way from the Minnesota Department of Transportation.

Background:

As part of the Topgolf proposal, the City approved a replat of the property that included the dedication of additional right of way for the extension of Camden Ave. N. and relocation of the existing cul-de-sac to facilitate the placement of the Topgolf building. The City also vacated and rededicated necessary utility easements.



Topgolf will reconstruct Camden Avenue N., extending the roadway and rebuilding the cul-de-sac within City right-of-way; however, at the base of the new Camden Avenue N. cul-de-sac, there is a narrow strip of MnDOT right-of-way that is considered access right-of-way from the I-694 and Hwy 252 improvements.

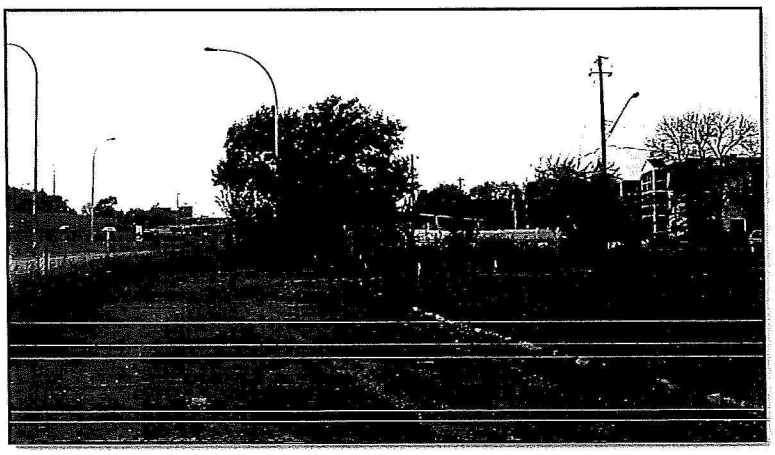
COUNCIL ITEM MEMORANDUM



The City agreed to facilitate the transfer of the excess right-of-way from MnDOT to Topgolf as part of the land swap negotiation that took place prior to the Topgolf proposal. The City has since negotiated with MnDOT to purchase this abandoned remnant of MnDOT property for $4,800.

Since the approval of their project, Topgolf has sold their land to SFG Net Lease TG Minneapolis, LLC (SFG), which will hold the land and act as Topgolf's landlord.

Once the City has acquired the excess right-of-way parcel from MnDOT, the City will in turn sell the remnant to SFG for $1. In exchange, SFG agrees to replat the property, incorporating the remnant into the overall parcel and dedicate to the City the necessary right-of-way to accommodate the cul-de-sac. In addition, SFG agrees to landscape and maintain the parcel.



COUNCIL ITEM MEMORANDUM

This photograph illustrates the existing condition of this excess right of way strip. To the west of the site is the Melrose Gates Apartment complex which has a fire lane access easement to Camden Ave. N.

Proposal:

The City Attorney has drafted a Memorandum of Understanding between the City and SFG that outlines the terms of the agreement. Once SFG executes the MOU, the City will move forward with the acquisition of the excess right-of-way from MnDOT, and turning the property over to SFG. SFG then agrees to apply for a preliminary and final plat to replat their property and incorporate the excess parcel into the larger land area. At that time the City will receive right-of-way back from SFG over the portion of excess land that the new cul-de-sac encroaches into.

The conveyance agreement from MnDOT expires on May 26, 2018. SFG is still reviewing the terms of the MOU. If they have not executed the document before May 26th, the City may request an extension from MnDOT for the conveyance deadline.

Strategic Priorities:

- Targeted Redevelopment

Attachment

- Resolution Approving the Cul-de-sac Memorandum of Understanding between the City and SFG Net Lease TG Minneapolis, LLC and Authoring the Purchase of Excess Right-of-way from the Minnesota Department of Transportation.

Member _____ introduced the following resolution and moved its adoption:

CITY OF BROOKLYN CENTER

RESOLUTION NO. _____

A RESOLUTION APPROVING THE CUL-DE-SAC MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND SFG NET LEASE TG MINNEAPOLIS, LLC AND AUTHORIZING THE PURCHASE OF EXCESS RIGHT-OF-WAY FROM THE MINNESOTA DEPARTMENT OF TRANSPORTATION

RECITALS

WHEREAS, Topgolf is currently constructing a Topgolf entertainment facility on property legally described as Lot 1, Block 1, Topgolf Addition, Hennepin County, Minnesota (the "Property") that it leases from SFG Net Lease TG Minneapolis, LLC, a Georgia limited liability company ("SFG"); and

WHEREAS, the Minnesota Department of Transportation ("MnDOT") has offered to sell the excess right-of-way that is adjacent to the Property to the City, said parcel is legally described on the attached Exhibit A (the "MnDOT Parcel"); and

WHEREAS, SFG has requested that the City purchase the MnDOT Parcel and convey it to SFG so that it can be combined with the Property and owned and maintained by SFG; and

WHEREAS, in exchange for the MnDOT Parcel, the City has requested that SFG provide the City with an easement for right-of-way purposes over a portion of the Property for the City's Camden Avenue cul-de-sac, said location of the easement is legally described and depicted on the attached Exhibit B (the "Cul-de-Sac Easement"); and

WHEREAS, the City is willing to purchase the MnDOT Parcel and convey it to SFG provided that SFG combines the MnDOT Parcel with the Property by replatting the property and dedicating the Cul-de-Sac Easement to the City; and

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center as follows:

1. The Cul-de-Sac Memorandum of Understanding between the City and SFG that is attached as Exhibit C (the "MOU") is hereby approved. Any modifications to the MOU that may become necessary may be made by City staff subject to the review and approval of the City Manager and the City Attorney. The Mayor and the City Manager are authorized to sign the MOU on behalf of the City.

2. The City's purchase of the MnDOT Parcel is contingent upon SFG signing the MOU. Upon SFG signing the MOU, City staff shall notify MnDOT that the City is purchasing

the MnDOT Parcel and forward payment to MnDOT in the amount of $4,800.00. City staff is then authorized to execute any documents necessary in order to effectuate the acquisition of the MnDOT Parcel.

3. City staff is authorized to execute any documents necessary in order to effectuate the conveyance of the MnDOT Parcel to SFG.

Passed and duly adopted this ____ day of May, 2018, by the City Council of the City of Brooklyn Center, Minnesota.

Tim Willson, Mayor

ATTEST:

Sharon Knutson, City Clerk

EXHIBIT A TO RESOLUTION

Legal Description of the MnDOT Parcel

That part of Tract A described below:

Tract A. That part of Government Lot 3 of Section 36, Township 119 North, Range 21 West, Hennepin County, Minnesota, described as follows: Commencing at a point 580 feet north and 200 feet west from the intersection of the centerline of Trunk Highway No. 100 and the centerline of Trunk Highway No. 169 as both were located prior to January 1, 1962; thence at an angle to the right 106 degrees 30 minutes 40 seconds a distance of 67 feet; thence at an angle to the left of 107 degrees 08 minutes 40 seconds a distance of 542.3 feet; thence at an angle to the left of 94 degrees 55 minutes 00 seconds a distance of 30.11 feet to the point of beginning of Tract A to be described; thence at an angle to the left of 85 degrees 05 minutes 00 seconds a distance of 30.11 feet; thence at an angle to the right of 52 degrees 17 minutes 00 seconds a distance of 326.58 feet to the northwesterly right of way line of said Trunk Highway No. 100; thence southwesterly along said highway right of way line to the east line of Lot 8, Mendenhall's Outlots; thence north along the east line of Lots 8 and 6, said Mendenhall's Outlots to the point of beginning;

which lies southeasterly of Line 1 described below and northwesterly of Line 2 described below:

Line 1. Beginning at a point on the north and south quarter line of said Section 36, distant 270 feet south of the northeast corner of Lot 8, Mendenhall's Outlots; thence northeasterly to a point which is 30 feet northwesterly (measured at right angles) from a point on the northwesterly right of way line of said Trunk Highway No. 100, distant 200 feet northeasterly of its intersection with said north and south quarter line and there terminating;

Line 2. Commencing at the south quarter corner of said Section 36; thence northerly on an azimuth of 355 degrees 28 minutes 48 seconds along the north and south quarter line thereof for 1695.35 feet to the point of beginning of Line 2 to be described; thence on an azimuth of 78 degrees 43 minutes 18 seconds for 100.00 feet; thence on an azimuth of 64 degrees 22 minutes 35 seconds for 114.14 feet and there terminating;

together with that part of Tract B described below:

Tract B. That part of Government Lot 3 of Section 36, Township 119 North, Range 21 West, Hennepin County, Minnesota, described as follows: Commencing at a point 580 feet north and 200 feet west from the intersection of the centerline of Trunk Highway No. 100 and the centerline of Trunk Highway No. 169 as both were located prior to January 1, 1962; thence at an angle to the right 106 degrees 30 minutes 40 seconds a distance of 67 feet; thence at an angle to the left of 107 degrees 08 minutes 40 seconds a distance of 542.3 feet; thence at an angle to the left of 94 degrees 55 minutes 00 seconds a distance of 30.11 feet to the point of beginning of Tract B to be described; thence at an angle to the left of 85 degrees 05 minutes 00 seconds a distance of 30.11 feet; thence at an angle to the right of 52 degrees 17 minutes 00 seconds a distance of 326.58 feet to the northwesterly right of way line of said Trunk Highway No. 100; thence southwesterly along said highway right of way line to the east line of Lot 8, Mendenhall's Outlots; thence north along the east line of Lots 8 and 6, said Mendenhall's Outlots to the point of beginning; excepting therefrom the right of way of Camden Avenue and the right of way of Trunk Highway No. 94 as both were located and established prior to January 1, 1979; also excepting therefrom that part acquired for street right of way lying northeasterly of the northerly right of way line of said Trunk Highway No. 94 as located and established prior to January 1, 1979 and southeasterly of line run parallel with and distant 30 feet northwesterly of the northwesterly right of way line of said Trunk Highway No. 100;

which lies southeasterly of a line run parallel with the distant 5 feet northwesterly of Line 3 described below:

Line 3. Beginning at the intersection of the northeasterly line of Tract A hereinbefore described and a line run parallel with and distant 30 feet northwesterly of the southeasterly line thereof, being the most easterly corner of Tract B hereinbefore described; thence southwesterly on the southeasterly line of said Tract B for 40 feet, thence continue southwesterly on the last described course for 60 feet and there terminating;

also together with that part of Tract B hereinbefore described, which lies southwesterly of the following described line: Beginning at a point on the west line of said Tract B, distant 15 feet north of the southwest corner thereof; thence southeasterly to a point on the southeasterly line of said Tract B, distant 20 feet northeasterly of said southwest corner and there terminating;

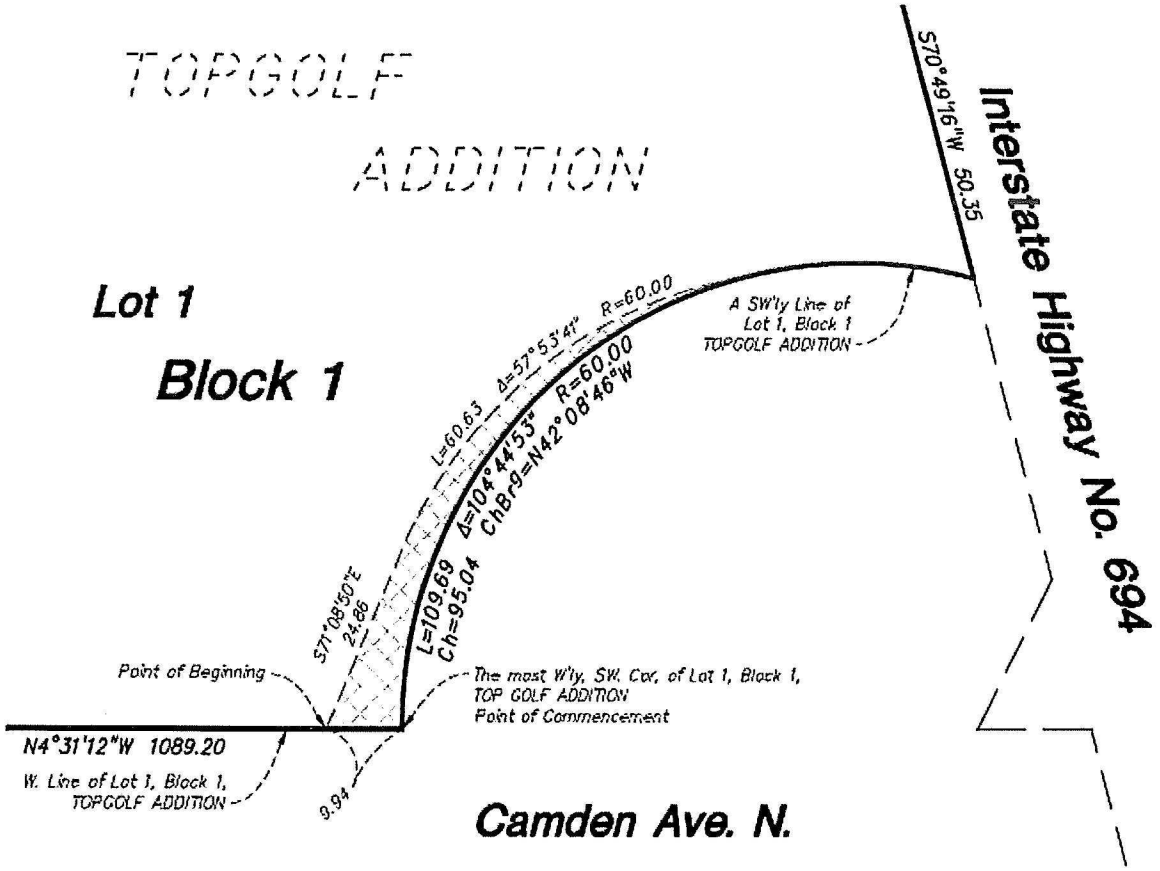
EXHIBIT B TO RESOLUTION

Legal Description and Depiction of the Cul-de-Sac Easement

EXHIBIT

TOPGOLF

ADDITION



DESCRIPTION

That part of Lot 1, Block 1, TOPGOLF ADDITION, Hennepin County, Minnesota, lying southwesterly of the following described line:

Commencing at the most westerly, Southwest corner of Lot 1, thence on an assumed bearing of North 4 degrees 31 minutes 12 seconds West along the west line of said Lot 1, a distance of 9.94 feet to the point of beginning of the line to be described; thence South 71 degrees 08 minutes 50 seconds East 24.86 feet; thence southeasterly 60.63 feet more or less to a southwesterly line of said Lot 1, along a tangential curve concave to the southwest having a radius of 60.00 feet and a central angle of 57 degrees 53 minutes 41 seconds and said line there terminating.

N

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SCALE IN FEET

PROJECT NUMBER: 16366 DRAWN BY: KMM SHEET NUMBER 1 OF 1

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ENVIRONMENTAL

© 2018

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Max L. Stanislowski - PLS

License No. 48988

Date 03/21/18

EXHIBIT C TO RESOLUTION

CUL-DE-SAC MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "MOU") is made this ___ day of _____, 2018, by and between the City of Brooklyn Center, a Minnesota municipal corporation (the "City") and SFG Net Lease TG Minneapolis, LLC, a Georgia limited liability company ("SFG").

RECITALS

WHEREAS, SFG is the owner of real property legally described as: Lot 1, Block 1, Topgolf Addition, Hennepin County, Minnesota (the "SFG Parcel"); and

WHEREAS, the Minnesota Department of Transportation ("MnDOT") has offered to sell excess right-of-way that is adjacent to the SFG Parcel to the City, said parcel is legally described on the attached Exhibit A (the "MnDOT Parcel"); and

WHEREAS, SFG has requested that the City purchase the MnDOT Parcel and convey it to SFG so that it can be combined with the SFG Parcel and owned and maintained by SFG; and

WHEREAS, the City has requested that SFG provide the City with an easement for right-of-way purposes over a portion of the SFG Parcel for the Camden Avenue cul-de-sac, said location of the easement is legally described and depicted on the attached Exhibit B (the "Cul-de-Sac Easement"); and

WHEREAS, the City is willing to purchase the MnDOT Parcel and convey it to SFG provided that SFG combine the MnDOT Parcel with the SFG Parcel by replatting the property and dedicating the Cul-de-Sac Easement to the City in the plat; and

NOW, THEREFORE, on the basis of the mutual covenants and agreements hereinafter provided, it is hereby agreed by and between the parties hereto as follows:

1. The foregoing recitals are incorporated into and made a part of this MOU.

2. The City will purchase the MnDOT Parcel from MnDOT.

3. Upon receipt of the MnDOT Parcel, the City will convey the MnDOT Parcel by quit claim deed to SFG for $1.00. SFG shall be responsible for all costs associated with the conveyance, including, but not limited to, recording fees and any title search fees.

4. SFG agrees that after the MnDOT Parcel is conveyed to it by the City, SFG will make application to the City to combine the MnDOT Parcel and the SFG Parcel by replatting them. As part of the replat, SFG agrees to dedicate the Cul-de-Sac Easement to the City in the plat.

5. SFG agrees that it will construct the Camden Avenue cul-de-sac at its expense.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the day and year written above.

CITY OF BROOKLYN CENTER

By: _____
Tim Willson
Its: Mayor

By: _____
Curt Boganey
Its: City Manager

SFG NET LEASE TG MINNEAPOLIS, LLC

By: _____

Its: _____

EXHIBIT A TO CUL-DE-SAC MEMORANDUM OF UNDERSTANDING

Legal Description of the MnDOT Parcel

That part of Tract A described below:

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which lies southeasterly of Line 1 described below and northwesterly of Line 2 described below:

Line 1. Beginning at a point on the north and south quarter line of said Section 36, distant 270 feet south of the northeast corner of Lot 8, Mendenhall's Outlots; thence northeasterly to a point which is 30 feet northwesterly (measured at right angles) from a point on the northwesterly right of way line of said Trunk Highway No. 100, distant 200 feet northeasterly of its intersection with said north and south quarter line and there terminating;

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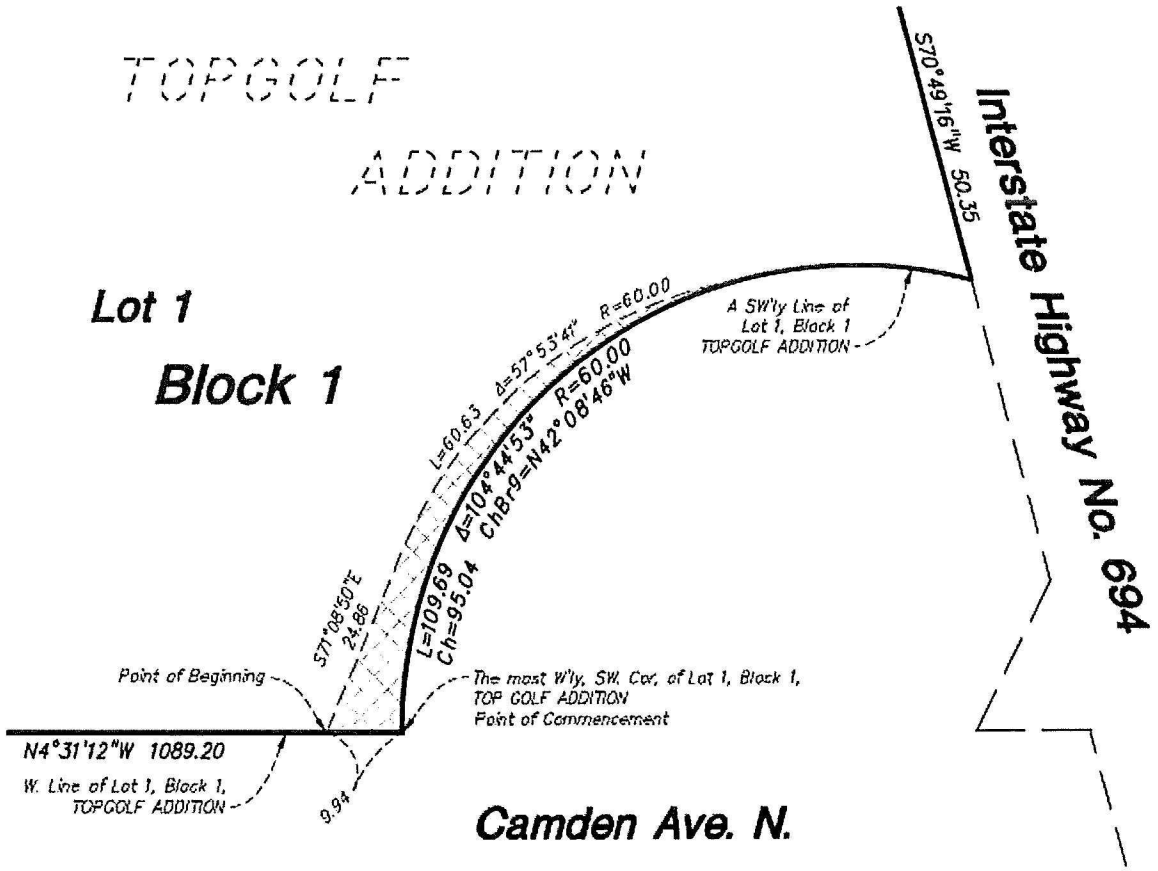
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EXHIBIT B TO CUL-DE-SAC MEMORANDUM OF UNDERSTANDING

Legal Description and Depiction of the Cul-de-Sac Easement

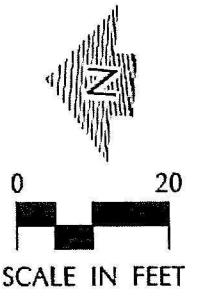
EXHIBIT



DESCRIPTION

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PROJECT NUMBER: 16366 DRAWN BY: KMM SHEET NUMBER 1 OF 1

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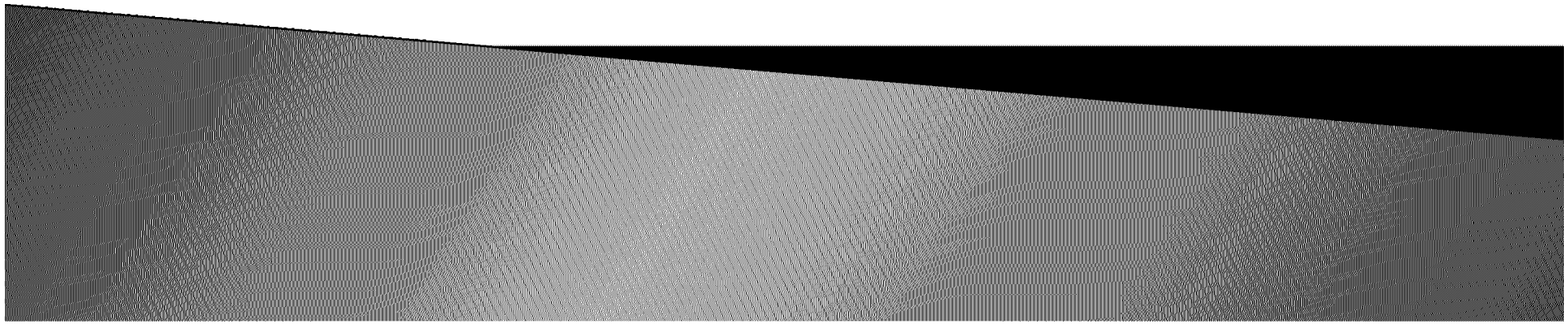
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

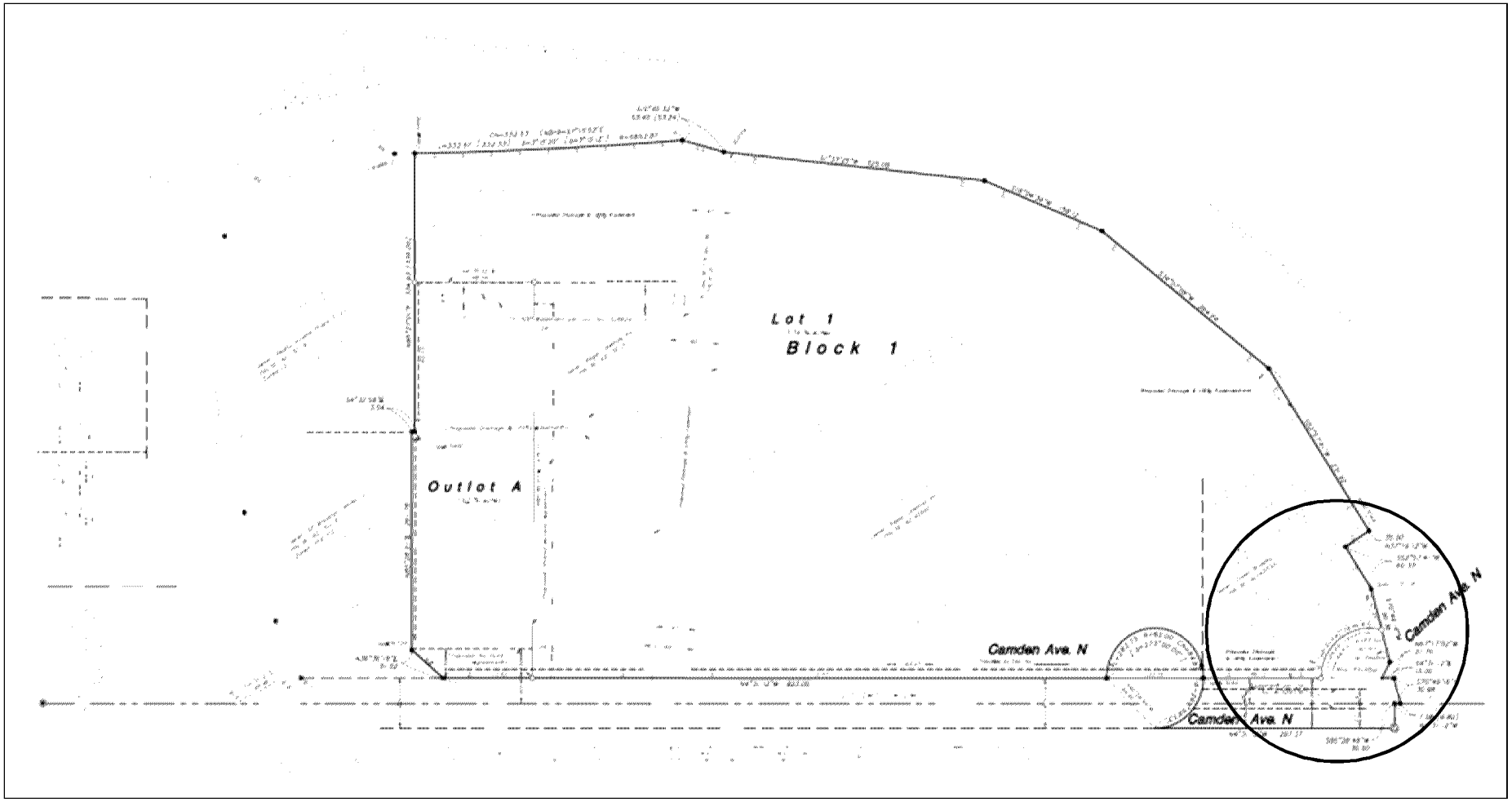
Max L. Stanislowski - PLS
License No. 48988
Date 03/21/18

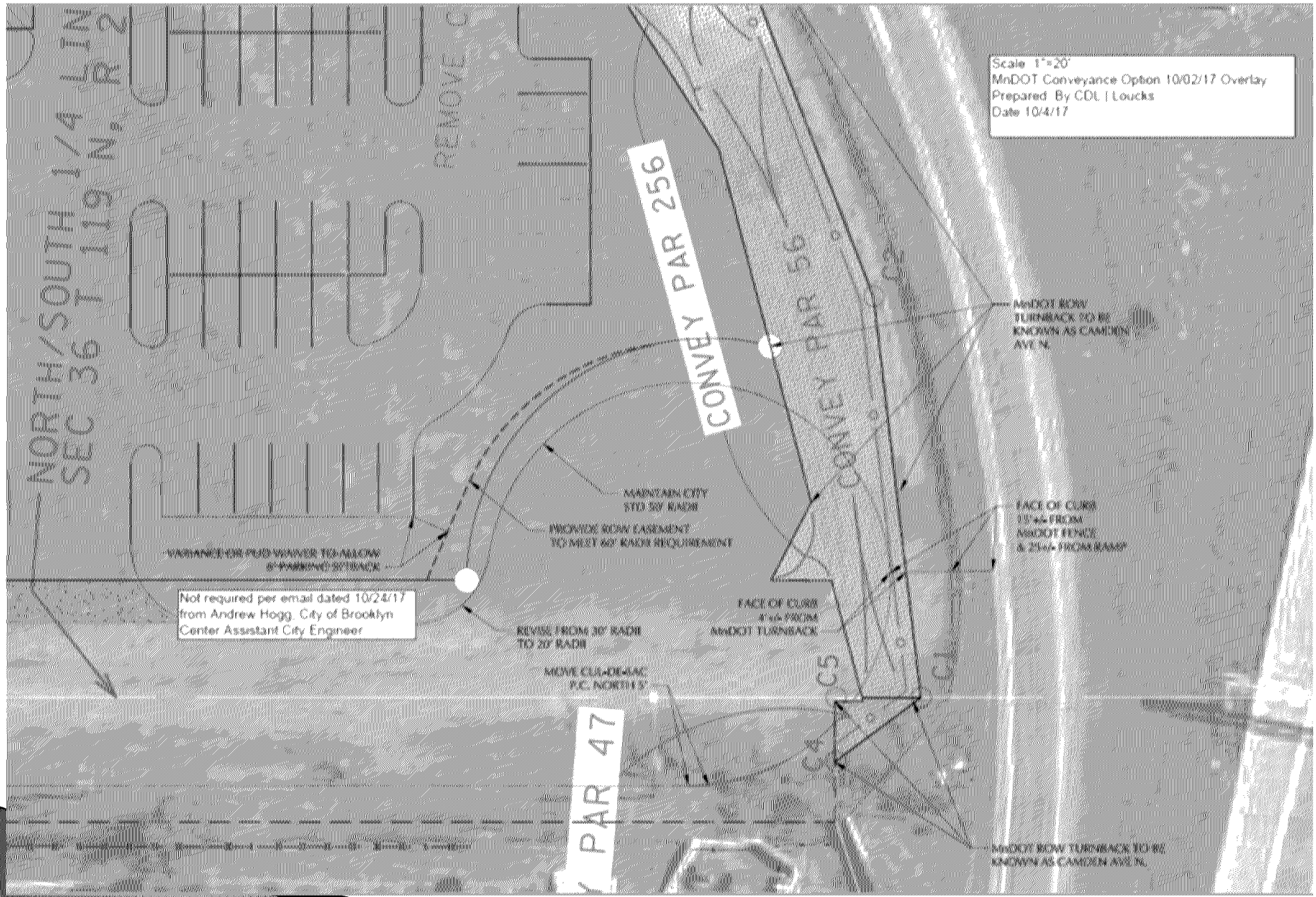
Resolution Approving the Cul-de-sac Memorandum of Understanding Between the City and SFG Net Lease TG Minneapolis, LLC and Authorizing the Purchase of Excess Right-of-Way from MnDOT

May 14, 2018

Meg Beekman, Community Development Director




Lot 1
Block 1
Outlot A
Camden Ave. N
Camden Ave. N
Camden Ave. N


Scale 1"=20'
MnDOT Conveyance Option 10/02/17 Overlay
Prepared By CDL | Loucks
Date 10/4/17
NORTH/SOUTH 1/4 LINE SEC 36 T119 N R
CONVEY PAR 256
CONVEY PAR 56
MnDOT ROW TURNBACK TO BE KNOWN AS CAMDEN AVE N.
MAINTAIN CITY STD 50' RADII
PROVIDE ROW EASEMENT TO MEET 60' RADII REQUIREMENT
VARIANCE OR PUD WAIVER TO ALLOW 8' PARKING SETBACK
FACE OF CURB 10'+/- FROM MnDOT FENCE & 25+/- FROM BRASS
Not required per email dated 10/24/17 from Andrew Hogg, City of Brooklyn Center Assistant City Engineer
REVISE FROM 30' RADII TO 20' RADII
FACE OF CURB 4'+/- FROM MnDOT TURNBACK
MOVE CL1-CL4-CL5-CL6 P.C. NORTH 5'
C5
C6
PAR 47
MnDOT ROW TURNBACK TO BE KNOWN AS CAMDEN AVE N.

Proposal

- Memorandum of Understanding between the City and SFG Net Lease TG Minneapolis, LLC

- Authorization to purchase Excess Right-of-Way from MnDOT

  - The City will transfer the excess right-of-way to SFG
  - SFG will accept the excess right-of-way and cause their property to be replatted

Recommended Action

- Approve a Resolution Approving the Cul-de-sac Memorandum of Understanding between the City and SFG Net Lease TG Minneapolis, LLC and Authoring the Purchase of Excess Right-of-way from the Minnesota Department of Transportation.

Work Session Agenda

AGENDA
CITY OF BROOKLYN CENTER
CITY COUNCIL/ECONOMIC DEVELOPMENT AUTHORITY WORK SESSION
May 14, 2018
Immediately Following Regular City Council and EDA Meetings Which Start at 7:00 P.M.

City Hall Council Chambers

A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

ACTIVE DISCUSSION ITEMS

1. Tobacco Purchase Age 21 (Brooklyns Youth Council)
2. Park Dedication Fees
3. Median Safety Initiative
4. Schedule Special Joint Work Session Meetings with Planning Commission to Review 2040 Comprehensive Plan Update

PENDING LIST FOR FUTURE WORK SESSIONS

Later/Ongoing

1. Organic Composting and Native Bee Habitat (1-8-18 Study Session Discussion) – May
2. Comprehensive Plan Art Contest – May
3. Ordinance Review Process – May
4. Earle Brown Days Update
5. Beautification and Public Art Initiative - June

Work Session Agenda Item No. 1

MEMORANDUM – COUNCIL WORK SESSION

DATE: May 10, 2018

TO: City Council

FROM: Curt Boganey, City Manager

SUBJECT: City of Brooklyn Center Tobacco Policy Recommendations

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding the information received and recommendations made regarding Tobacco Policy in Brooklyn Center

Background:

Nearly a year ago the City was contacted by representatives of Hennepin County Public Health department regarding tobacco sales to youth in Brooklyn Center. In particular they expressed an interest in having the City Consider adopting an ordinance that would restrict sales to individuals aged 21 or older. An outgrowth of that inquiry was a request made to the Brooklyn Youth Council; asking that they consider providing youth voice into this issue prior to the Council considering the request.

The BYC agreed to accept this project and has been engaged in an extensive process of research and analysis regarding the topic over last several months. On Monday to you will receive two presentations on this subject.

Hennepin County Public Health will provide a brief introduction of the issue of tobacco products and marketing at the point-of-sale, "why" this issue is being brought forward and briefly walk through the document with the City Council.

The BYC will follow with a 30-40 minute presentation of the project, recommendations and respond to any questions the Council may have.

Policy Issues:
Does the City Council desire additional information before considering the recommendations of the report?

Does the City Council wish to have staff take any action regarding the findings and recommendations i.e. ordinance preparation, work session review, further research?

Strategic Priorities:

- Safe, Secure, Stable Community

Date: May 7, 2018
To: Curt Boganey, City Manager
From: Brooklyns Youth Council (BYC)
Subject: City of Brooklyn Center Tobacco Policy Recommendations

INTRODUCTION AND SUMMARY

The BYC's mission is to represent youth in Brooklyn Center and Brooklyn Park by providing a voice in collaboration with the community and local government in order to positively raise awareness of problems facing youth. We are a team of youth from Brooklyn Center and Brooklyn Park who serve as an advisory, strategic planning, and communicating body in partnership with the Brooklyn Bridge Alliance for Youth, Cities of Brooklyn Center and Brooklyn Park, Hennepin County, Local School Districts and Community Colleges to help us make the most impact for youth in our community. We do a diverse range of projects to represent the issues and hopes of youth in our community such as provide advice and input on policies related to youth that the Alliance partners have.

This year, the BYC partnered with Hennepin County Public Health Department to better understand the effects tobacco has on the youth in Brooklyn Center and Brooklyn Park. Our research consisted primarily of 8 focus groups with youth ages 12-20. In total we interviewed 38 young people, 16 from Brooklyn Center and 22 from Brooklyn Park. Below are key findings from our research.

KEY FINDINGS

Youth tobacco use behavior:

- Many youth expressed that tobacco was very easy to obtain.
- Cigarillos, menthol cigarettes, and flavored e-cigarettes are the most prominent tobacco products youth use.
- E-cigarettes are seen as a healthy alternative to cigarettes.
- Many youth expressed that stress and peer pressure were the primary reasons they chose to use tobacco.

Exposure to tobacco products and marketing:

- Youth frequent tobacco retailers on a daily basis.
- Corner stores, convenience stores and gas stations are the stores youth shop at the most.

Youth awareness and perceptions of tobacco marketing:

- Youth are aware that tobacco marketing is more prominent in low-income and communities of color.
- Young people realize that the marketing of flavored tobacco products is directed at them.
- Marketing of e-cigarettes as a healthier alternative is effective among youth.

The effects of tobacco

- Youth felt tobacco is a gateway for other drugs.
- Using tobacco affects youth's physical, emotional and mental health.

RECOMMENDATIONS

Based on these key findings, the BYC compiled a list of recommendations for the Brooklyn Center City Council.

- **Reduce youth access and exposure to flavored tobacco products.**
  1. Restrict the sale of flavored tobacco products (including menthol) to tobacco shops that restrict minors.
- **Increase the cost of tobacco products.**
  1. Require that cigars sold in packages of 3 or fewer be sold at a minimum price of $2.60 per cigar contained in package; and packages of 4 or more sold for no less than $10.40/package
  2. Increase product costs through non-tax approaches (such as prohibiting coupon redemption or other price discounting).
- **Raise the minimum legal sales age to 21.**
- **Reduce the density of tobacco retailers.**
  1. Reduce the number of tobacco retailers to 15 retail stores. This could be done by capping the number of tobacco retailers currently, and gradually reducing the number, as tobacco licenses are not renewed.
- **Restrict the sale of tobacco near youth serving facilities.**
  1. Restrict the proximity of new tobacco retailers to within 1,000 feet of youth serving facilities, such as:
     i. Schools/educational facilities
     ii. Parks
     iii. Community centers
     iv. Library
- **Increase tobacco retailer compliance with age verification to purchase tobacco products.**
  1. Require retailer employee training on youth access laws. This training can be preventative, a consequence or both.
  2. Increase the number of annual compliance checks.
  3. Require re-inspections after failed compliance check(s) and/or FDA violation(s).
  4. For additional costs of administering the compliance checks, increase the licensing fee so the license holder absorbs the costs.
  5. Signage – Require the notice of the legal sales age and age verification requirement be posted at each retail store.
  6. Increase penalties for license violations – this could be done through increased fines; longer suspension terms; suspensions for first, second, third violations.

NEXT STEPS

The BYC also compiled a list of recommendations for the school districts, Hennepin County Public Health, and Minnesota Department of Health to consider in reducing the impact of tobacco on youth in Brooklyn Center.

- **School districts:** Meet and engage with the school boards to inform them on the rising usage rates and concerns about e-cigarettes in schools, increase awareness of tobacco issues and impacts on youth, and boost mental health/well-being services and programs that schools provide to students to reduce tobacco use.
- **Hennepin County Public Health:** Increase awareness in Hennepin County on tobacco issues and impacts on youth and provide support and technical assistance to boosting mental health/well-being services and programs that schools provide to students to reduce tobacco use.
- **Minnesota Department of Health:** Explore state and federal policy approaches on how to decrease youth access to online sales of e-cigarettes.

This project was completed in partnership with Hennepin County Public Health with support from the Statewide Health Improvement Partnership, Minnesota Department of Health.

City of Brooklyn Center
Demographics & Chronic Disease Data - April 2018

Heart disease, cancer, diabetes, and stroke are among the most common causes of illness, disability, and death in the United States. These chronic conditions, and the factors that lead to them, can be more common or, severe, for certain populations such as minority groups, those experiencing poverty, or having less education. Local demographic information brings awareness to those who may be at risk for chronic disease disparities. Chronic disease data in Hennepin County northwestern suburbs, which includes Brooklyn Center, is also provided.

Demographics

- Population by Age[1]:
  - 30% are 19 years old or younger
  - 37% are 24 years old or younger
  - 45% are 29 years old or younger
  - 56% are 30 years old or older

- Race/ethnicity[2]:
  - White, alone: 43%
  - Black or African American, alone: 28%
  - Hispanic or Latino: 10%
  - Two or more races: 3%
  - Asian, alone: 15%
  - American Indian or Alaska Native, alone: 0.4%
  - Some other race, alone: 0.4%

- Poverty[3]:
  - Persons below the Federal poverty level: 19%
  - Persons between 100% and 150% of the Federal poverty level: 14%

- Highest level of education[4]:
  - Did not graduate high school: 16%
  - High school graduate: 31%
  - Some college, no degree: 22%
  - Associate degree: 10%
  - Bachelor degree: 15%
  - Graduate/professional degree: 6%

- Income[5]:
  - Per capita personal income: $22,400
  - Median household income: $46,400

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City of Brooklyn Center
Demographics & Chronic Disease Data - April 2018

Chronic Disease and Conditions Data (Metro SHAPE 2014 Adult Survey)

	Hennepin County NW Suburbs, Inner Ring*	Hennepin County Suburban Totals	Hennepin County
Percentage who have ever had diabetes	6.2%	5.9%	6.1%
Percentage who have ever had a heart attack	2%	2.1%	2%
Percentage who have ever had a stroke	2.1%	1.5%	1.7%
Percentage who have ever had an angina	4%	3.1%	2.9%
Percentage who have ever had a heart attack, angina, or stroke	5.8%	5%	4.8%
Percentage who have ever had asthma	11.1%	10.8%	11.8%

*Includes Brooklyn Center, Crystal, Golden Valley, New Hope, and Robbinsdale.

- The figure above describes percentages for adults aged 25 and older.

[1]Metropolitan Council, Community Profiles. Population by Age and Gender in Brooklyn Center. ACS 2012-2016. Available at https://stats.metc.state.mn.us/profile/detail.aspx?c=R11000. (Accessed 3/23/18).
[2]Metropolitan Council, Community Profiles. Population by Race and Ethnicity in Brooklyn Center. ACS 2012-2016. Available at https://stats.metc.state.mn.us/profile/detail.aspx?c=R11000#POPRACEETH. (Accessed 3/23/18).
[3]Metropolitan Council, Community Profiles. Percent of Brooklyn Center Population Below the Federal Poverty Level. ACS 2012-2016. Available at https://stats.metc.state.mn.us/profile/detail.aspx?c=R11000#povertylevel. (Accessed 3/23/18).
[4]Metropolitan Council, Community Profiles. Highest Level of Education Attained by Brooklyn Center Residents. ACS 2012-2016. Available at https://stats.metc.state.mn.us/profile/detail.aspx?c=02393428#POPAGEGENDER. (Accessed 3/23/18).
[5]Metropolitan Council, Community Profiles. Per Capita Personal Income and Median Household Income in Brooklyn Center. ACS 2012-2016. Available at https://stats.metc.state.mn.us/profile/detail.aspx?c=R11000#percapita. (Accessed 3/23/18).

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City of Brooklyn Center
Tobacco environmental scan

Youth tobacco use is still a problem

- Tobacco kills more Minnesotans than alcohol, homicides, car accidents, AIDS, illegal drugs, and suicide combined.[1]
- Nearly all tobacco users start smoking by age 21.[2]
- 2,500 kids in Minnesota become new daily smokers each year; 102,000 now under age 18 will die prematurely from smoking.[3]
- The tobacco industry spends over $300,000 a day marketing tobacco, most of which is spent in retail stores—the most important channel for reaching kids.[4]
- Annual health care costs in Hennepin County directly caused by tobacco exceed $585 million in excess medical costs. This does not include the cost of lost productivity and other costs indirectly attributed to smoking.[5]

Tobacco retailers *(Sources: Brooklyn Center City Clerk; FDA Compliance Checks Inspections database)*

Tobacco retailers	21, or 0.65 per 1,000 residents
Tobacco or e-cigarette shops/lounges	1
Frequency of local compliance checks	2 annually
Retailers with compliance check violations in 2015, 2016, 2017	0, 0, 0
Retailers with FDA violations in 2014, 2015, 2016, 2017*	4, 2, 0, 5

** 2014 violations for sale of cigarettes to a minor, failure to check ID, and self-service display; 2015 civil monetary penalties; 2017 violations for sale of cigarettes, cigars, and e-liquid to a minor and failure to check ID.*

Youth tobacco use *(Sources: Minnesota Student Survey 2010, 2013, and 2016, Brooklyn Center, Osseo, and Robbinsdale School Districts combined)*

Percentage of youth who reported using the following products within the past 30 days:	Brooklyn Center, Robbinsdale, & Osseo School Districts, combined				
	9th Grade			11th Grade	
	2010	2013	2016	2013	2016
Conventional tobacco**	10%	9%	3%	15%	8%
Any tobacco use***	NA****	NA	12%	NA	20%
Cigarettes	8%	6%	2%	10%	5%
Cigars, cigarillos, little cigars	5%	6%	2%	9%	5%
Electronic cigarettes	NA	NA	10%	NA	17%
Flavored tobacco	NA	NA	5%	NA	8%
Menthol cigarette	NA	NA	3%	NA	6%

**Data is not available for 11th grade in 2010.*
***Conventional tobacco use includes cigarettes, chewing tobacco/snuff/dip, or cigars/cigarillos/little cigars.*
****Any tobacco use includes conventional tobacco, electronic cigarettes, or hookah/water pipe.*
*****NA = not asked*

Key findings from Brooklyn Center, Osseo, and Robbinsdale School Districts' combined MN Student Survey

- The good news: fewer youth are smoking and using conventional tobacco products.
- The bad news: overall, there is an increase in tobacco use driven by the dramatic increase in e-cigarette use.
- 9th and 11th graders now use e-cigarettes at a much greater rate than conventional tobacco, with 9th graders using e-cigarettes three times more, and 11th graders using e-cigarettes two times more, than conventional tobacco.
- Many youth who use tobacco are using menthol and other flavored tobacco products. Flavored products are considered a starter product, and some, such as menthol, are harder to quit.[6]
  - Over 40% of tobacco users in both 9th and 11th grade use flavored tobacco and one in four tobacco users use menthol.

Sources:
1 MN Department of Health. Tobacco Prevention and Control Data and Reports. Available at: http://www.health.state.mn.us/divs/hpcd/tpc/data.html. Accessed on 3/29/18.
2 Ibid.
3 Campaign for Tobacco Free Kids. The Toll of Tobacco in Minnesota. Available at: http://www.tobaccofreekids.org/facts_issues/toll_us/minnesota. Last updated 3/1/18. Accessed on 3/29/18.
4 Ibid.
5 Blue Cross and Blue Shield of Minnesota Center for Prevention. 2017 Health Care Costs and Smoking in Minnesota and Lost Productivity. Available at: http://www.centerforpreventionmn.com/newsroom/news-articles/2017-health-care-costs-and-smoking-in-mn.
6 U.S. Department of Health and Human Services. (2012). Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

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Tobacco Control Legal Consortium

April 19, 2018

Gretchen Garman, MPH
Hennepin County Public Health Department
Gretchen.garman@hennepin.us
612-543-1985

RE: Brooklyn Center Tobacco Ordinance Review

Dear Gretchen:

Thank you for your request to review the City of Brooklyn Center's tobacco licensing code and provide analysis on ways to conform with state and federal law ("modernizing" the code) and strengthen the law pursuant to best public health policy practices.

First, as you are likely aware, the Public Health Law Center does not lobby, nor does it provide legal representation or advice. Based on our experiences with retail licensing and sales restrictions, we are able to provide our observations and other educational information for your own evaluation of these issues. This information is for educational purposes only; we do not request that a policymaker take any specific action in regard to our comments, nor should our comments be considered a replacement for legal advice. If you or the City of Brooklyn Center require a legal opinion, we encourage you to consult with local legal counsel.

Below, please find a summary of my key findings from the City of Brooklyn Center's "Tobacco Related Products" licensing regulations. The regulations were compared to licensing laws from other jurisdictions in Minnesota and across the U.S.

City of Brooklyn Center's Retail Tobacco Regulations

Minnesota municipalities have the authority to license retailers and regulate the sale of tobacco and related devices and products within their jurisdictions. Regulating tobacco retailers through licensing is considered a best practice.

The City of Brooklyn Center's tobacco licensing code already aligns with some good tobacco control practices. They include:

- The law conforms with Minnesota law which requires a local license to sell "electronic delivery devices" – a broad term used to describe what are more commonly referred to as "e-cigarettes."
- The transfer of a license to another person or location is prohibited.
- The sale of certain tobacco products is prohibited by means of unattended self-service methods, vending machines, and loosies, with the exception of adult-only retailers.
- Open product ("self-service") displays are prohibited in all licensed locations.
- Moveable places of business are ineligible for a city license.
- A violation of any state, federal, or local tobacco control law is grounds for denial of a license.
- License holders are responsible for the conduct of their employees on the licensed premises; employee violations are considered acts of the licensee for penalty purposes.

- Increased product costs through minimum product pricing and minimum pack sizes.
- Prohibition of indoor smoking in licensee premises.

Despite these strengths, there are elements that could be clarified, strengthened, or added, including:

Readability: simplifying the definition of licensed or covered products under a catch-all term

The city might consider creating a new "catch all" term that would cover all covered licensed products under the code for reference throughout the regulation. This would simplify the definitions of licensed products covered by the city ordinance and place them under a defined umbrella term of "licensed products" or "covered products" to both ensure coverage of all products under all regulations in the code and enhance the readability of the code. This also allows for future amendments of the definition as new products come on the market without having to change the list of products in numerous places throughout the ordinance. Possible language for a definition may include:

Licensed products or covered products. The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

Align with minimum standards in state and federal law

- Minnesota law requires a local license to sell "nicotine or lobelia delivery products." The current ordinance does not require a license for nicotine or lobelia delivery products. These products are also subject to the same licensing and sales regulations and should be specifically addressed in the licensing ordinance if the city is interested in complying with state law. These products could be defined and included under the "catch-all" term above for "licensed products" or "covered products".

- State and Federal law requires that electronic delivery device fluid (liquid packaging) be sold in child-resistant packaging. This requirement and a mechanism for enforcement could be explicitly incorporated to reflect federal law. A definition of child-resistant packaging would also be needed if this is adopted, such as:
  - **Child-resistant packaging.** Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

- State and federal law prohibits the distribution of most free samples. Local jurisdictions can prohibit the distribution of **all** free or nominally priced samples.

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Effective Administration and Enforcement

- Minnesota law requires at least one youth access compliance check per retailer each year. The City of Brooklyn Center sets a minimum number of compliance checks each year (one), but allows for more. A city can require multiple checks, as well as re-inspections after violations. Performing additional compliance checks per year can help promote better compliance with youth access laws. Costs for additional-mandated compliance checks can be incorporated into the license fee, with the costs absorbed by the license holders themselves.

- Some municipalities require retailers to train their employees on youth access laws and other licensing requirements. The City of Brooklyn Center could require training as a preventive measure for all licensees and/or as a consequence for underage and other illegal sales and violations.

- Some cities allow for a license to be revoked if the license was mistakenly granted. The City may choose to include this provision to ensure only qualifying establishments are allowed to hold a license.

- Enforcement of the ordinance could be clarified and strengthened if paragraphs were included to set requirements for age verification and for signage. The ordinance may be amended with language such as:
  - **Age verification.** Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
  - **Signage.** Notice of the legal sales age and age verification requirement must be posted at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

- The ordinance could include a section that makes it clear that a license is a privilege not a right and that renewal of an application is not automatic.

- Adding a section that treats "continued violations" as separate violations for each day or each occurrence of a violation would have a strong punitive effect and would spur prompt compliance with the law. The continued violation section could state:
  - **Continued violation.** Each violation, and every day in which a violation occurs or continues, shall constitutes a separate offense.

- Section 23-105 outlines "Prohibited Sales". This section could be renamed "Prohibited Acts" because it extends beyond sales.

Fees & Penalties

- Section 23-101, which requires the license, states: "A person must not directly or indirectly keep for retail sale, sell at retail, dispense or give away in a retail setting…" The terms "directly or indirectly" are not defined. A clearer way of stating the license requirement may be: "No person shall sell or offer to sell any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product without first having obtained a license to do so from the city."

- The current licensing fee for the City of Brooklyn Center is $150.00 and investigation fee is $150.00. Fees should be periodically reviewed to ensure they cover all administration, implementation and enforcement costs, including compliance checks. Fees that do not reflect actual costs should be adjusted.

- The City of Brooklyn Center's licensing code penalizes persons under age 18 for purchase or attempt to purchase, use, and possession of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices. Possession, use and purchase (PUP) laws may be unlikely to reduce youth smoking significantly. They may undermine other conventional avenues of youth discipline, divert attention from more effective tobacco control strategies, and relieve the tobacco industry of responsibility for its marketing practices. Some communities are concerned that PUP provisions may be enforced inconsistently with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system. Nicotine is more addictive than heroin and other drugs. Many public health groups suggest focusing instead on the retailer, especially since this is a licensing code.

For these reasons, the City of Brooklyn Center may consider removing this section which establishes penalties for underage violators of the tobacco licensing ordinances. Removal of this provision puts responsibility on the licensee, seller, or provider of the covered products.

- Strong consequences, like high administrative fines against violating licensees can help promote compliance. Establishing longer suspension terms, providing suspensions for first or second violations, and incorporating mandatory licensing revocations into the penalty structure can help encourage voluntary compliance and provide stronger tools to address repeat violators. This ordinance does not impose a suspension until the third violation. In general, Brooklyn Center's penalties for licensee violations align with state law, but state law allows local governments to do more.

- The ordinance allows for misdemeanor prosecution for all violations of the law. For the reasons outlined above regarding PUP provisions, the City may consider limiting the use of criminal penalties, particularly for underage persons.

Additional Licensing Options

Through licensing regulations, Minnesota cities and counties also have the opportunity to:

- Raise the minimum legal sales age to 21.

- Establish a minimum age for clerks or other employees who sell tobacco and related devices and products.

- Restrict or prohibit the sale of flavored tobacco products (this includes the sale of the menthol flavor).

- Prohibit the sales of imitation tobacco products and tobacco products containing other substances such as toxic, controlled or hallucinatory substances. Many new products coming onto the market use tobacco related products to consume the other substances.

- Reduce or restrict the number, location, density, and types of retailers. A high prevalence of tobacco retailers is associated with increased use of tobacco; and a higher concentration of tobacco retailers in low income neighborhoods or around schools has negative consequences for public health. Retail outlets are also a source of exposure to tobacco marketing, which is designed to encourage initiation and use. These changes may be accomplished through the licensing code or the zoning code.

- Increase product costs through non-tax approaches (such as prohibiting coupon redemption or other price discounting). The current minimum pricing provision for cigars in the City's ordinance could be increased. This is an example of a stronger minimum pricing provision that has been adopted in a neighboring jurisdiction:

  Cigars. No person shall sell or offer for sale any cigar that is not within its intended retail packaging containing a minimum of [four] cigars and for a sales price, after any discounts are applied and before sales taxes are imposed, of less than [$10.40] per package. This restriction does not prohibit the sale of a single cigar with a sales price, after any discounts are applied and before sales taxes are imposed, of at least [$2.60].

- Prohibit pharmacies from selling tobacco products. As pharmacies are considered health supporting institutions, it is inconsistent for them to sell tobacco products.

The City of Brooklyn Center may choose to adopt all or any of these policies, which the PHLC considers to be the best practice for public health.

The City of Brooklyn Center may also consider:

- Including a "Purpose and Intent" section. Adding a "Purpose and Intent" section helps to explain the legislative intent and the scientific basis for the law and is relied upon should the ordinance be challenged.

- Adding clarifying definitions. Definitions provide clear intent and help reduce legal challenges. There is one definition missing for "nicotine and lobelia products". Additionally, the definition of "smoking" could be updated so that it better reflects the range of new products coming onto the market, such as: "Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product, whether natural or synthetic, containing, made, or derived from nicotine, tobacco, marijuana, or other plant, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device." The City may also add definitions to clarify any new terms used if any of the policy options outlined above are adopted.

- Adding a section for Exceptions and Defenses would allow the city to allow an exception for licensed products for use in religious, spiritual, or cultural ceremonies and could provide an affirmative defense for those who appropriately relied on proof of age. Language for this new section could be:
  - **Exceptions and defenses.** Nothing in this ordinance prevents the providing of tobacco or tobacco-related devices to any person as part of a lawfully recognized religious, spiritual, or cultural ceremony.

- It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law (Minn. Stat. 340A.503(6)).

- An ordinance with a severability clause protects and upholds other components of the law if a successful legal challenge prevails against any part of the law. Possible language the City may want to include could be:
  - **Severability**. If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

I hope this is helpful. I would be happy to provide sample language for any policy change discussed in this memo. Please let us know if we can assist you further.

Sincerely,

Rachel Callanan
Senior Staff Attorney
Tobacco Control Legal Consortium at the Public Health Law Center



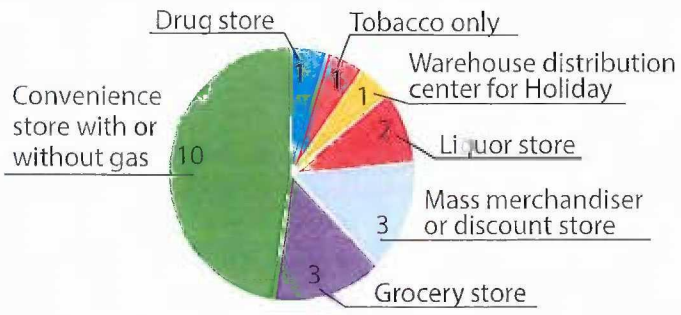
City of Brooklyn Center

Summary of tobacco observational visits, June 2016

This summary provides key information and data on the City of Brooklyn Center's tobacco retail environment. By bringing education and awareness to concerns about places where tobacco is sold, we can work towards strategies that reduce youth exposure to tobacco products and marketing.

In the City of Brooklyn Center, observational visits were completed at 20 of 21 businesses licensed to sell. One business was not visited as it is a warehouse distribution center for Holiday and tobacco is not sold tobacco directly to the public from this facility.

Tobacco retailers by store type and location



- There are 21 tobacco retailers in Brooklyn Center, or 0.65 retailers per 1,000 residents, which is lower than the national average of 1.5. Half of the retailers are convenience stores, but other stores are also accessible to youth.
- 14% of the retail stores are within 1,000 feet, or a couple of blocks, of schools, compared to 23% of Hennepin County stores. 48% are within 1,000 feet of parks, which youth frequent.

Why it is significant: *Researchers define "tobacco swamps" as any area that is double the national average (3+ retailers/1,000 residents). Brooklyn Center would not be considered a tobacco swamp. Location of retailers near areas that youth frequent increases their exposure to tobacco advertising and promotion. In addition, adolescents are frequent shoppers in convenience stores, with 70% of adolescents visiting a convenience store at least once a week. Research shows that the more cigarette marketing teens are exposed to in retail stores, the more likely they are to smoke.[i] Drug stores and pharmacies are a trusted source of health information, a place people go to buy products for their health, or to help them get better when they are sick. Selling tobacco products is inconsistent with this role.*

Advertising, product placement, and price promotions

- **10** stores have exterior advertisements.
  - Products most often advertised were cigarettes (menthol and non-menthol) and chew/snuff/dip/snus.
- **4** stores have tobacco ads within 3 feet of the floor.
  - In some cases, there are multiple ads at this level in a store.
- **3** stores have tobacco products placed within 12 inches of toys, candy, or soda machines.
- **45%** of stores have price promotions for cigarettes (menthol and non-menthol), and **20%** of stores have price promotions for chew/snuff/dip/snus inside the store.

Why it is significant: *Even if youth do not enter the store, they are likely to be exposed to tobacco marketing through outdoor advertising at tobacco retailers. When inside, there is often an abundance of tobacco products, ads, and price promotions. Children and youth are more likely to see ads and products that are placed near items they are interested in, such as candy and toys, or when they are placed at their sight level. This begins the process of familiarizing children and youth with products, which normalizes tobacco. Tobacco point-of-sale advertising encourages youth initiation, causes their progression, and discourages cessation.*[ii]

Flavored products

All tobacco retailers sell menthol-flavored cigarettes, and **85%** of the stores sell at least one other flavored tobacco product.

Tobacco product	# of stores selling product	# of stores selling menthol flavored	# of stores selling other flavor (e.g., candy, fruit)
Cigarettes	20	20	NA*
Cigarillos, little cigars	9	5	6
Large cigars	16	15	15
Chew, snuff, dip, snus	12	12	7
E-cigarette products	10	10	9

*Not applicable

Why it is significant: *The 2017 Minnesota Youth Tobacco Survey (MYTS) reports that over 60% of students who use tobacco use menthol or other flavored products.[iii] In 2009, the Federal Tobacco Control Act prohibited flavored cigarettes, except menthol, as they are a gateway for children and youth to become regular smokers. Subsequently, the tobacco industry developed other flavored tobacco products that are not cigarettes. Those products are increasingly popular among youth. Fruit, candy, and alcohol-flavored products with brightly colored packaging appeal to youth. The flavors mask the harshness and taste of tobacco. Once youth start using one tobacco product, they are more likely to experiment with others. Restricting flavored products to adult-only tobacco shops will reduce youth exposure to these products and prevent youth from starting.*

Price

- The price of a pack of cigarettes ranges from **$5.29-$12.90** in Brooklyn Center. The average price is, $8.16, yet over half (27) of stores sell them for less than the average.
- **14** stores sell single cigar products.
  - **36%** of the single cigar products are flavored (menthol or non-menthol).
  - Price range of cigars in a single pack/item: **$0.89-$6.29**.
  - **2** stores have single cigarillos/little cigars advertised for less than $1.
  - **5** stores sell single cigars below $2.10, which is the minimum price for cigars that licensed tobacco retailers are permitted to sell in the City of Brooklyn Center, and **11** stores sell single cigars below Minneapolis' and some other metro cities' $2.60 minimum cigar price.

Why it is significant: *Teens are especially sensitive to price. Every 10% increase in the price of a tobacco product reduces the number of youth who smoke by 6-7%.[iv] Because cigar products are sold in smaller packages, they are cheaper. Raising the prices of tobacco products by requiring a minimum pack size or pricing, or restricting the redemption of coupons, will prevent youth from starting.*

E-cigarette and e-cigarette products

- **10** stores sell e-cigarette products, and each of these retailers sell at least one flavored or menthol tobacco product.
  - The cheapest single disposable e-cigarette is $7.99.
- **9** stores sell e-juice.
  - It was difficult for auditors to determine if e-juice packaging was child resistant, which is required by Minnesota state law.

Why it is significant: *Statewide, one in five high-schoolers uses e-cigarettes, nearly a 50% increase since 2014.[v] The 2017 MYTS reports that 64% of students who currently use e-cigarettes used menthol or other flavored e-cigarettes in the past 30 days.[vi] In Brooklyn Center, Robbinsdale, and Osseo School Districts (combined), 9th and 11th graders now use e-cigarettes at a much greater rate than conventional tobacco. 9th graders use e-cigarettes three times more, and 11th graders use e-cigarettes two times more, than conventional tobacco. Products like e-cigarettes often contain liquid nicotine, which is highly addictive, and can harm adolescent brain development. These products are currently unregulated.[vii]*

Sources:

[i] Campaign for Tobacco-Free Kids. Trends in Tobacco Industry Marketing. Update April 28, 2017.

[ii] Campaign for Tobacco-Free Kids. Tobacco Company Marketing to Kids. Update April 28, 2017.

[iii] Minnesota Department of Health. 2017 Minnesota Youth Tobacco Survey fact sheet.
Available at: http://www.health.state.mn.us/tobacco/docs/2017_myts_factsheet.pdf. Accessed on April 4, 2018.

[iv] Campaign for Tobacco-Free Kids. Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (And the Cigarette Companies Know It). Update April 1, 2016.

[v] Minnesota Department of Health. 2017 Minnesota Youth Tobacco Survey fact sheet.
Available at http://www.health.state.mn.us/tobacco/docs/2017_myts_factsheet.pdf. Accessed on April 4, 2018.

[vi] Minnesota Department of Health. Data Highlights from the 2017 Minnesota Youth Tobacco Survey.
Available at http://www.health.state.mn.us/tobacco/docs/2017_myts_highlights.pdf. Accessed on April 4, 2018.

[vii] Minnesota Student Survey Interagency Team. (2016). Roseville, MN: Minnesota Department of Education. Minnesota Student Survey.

Hennepin County
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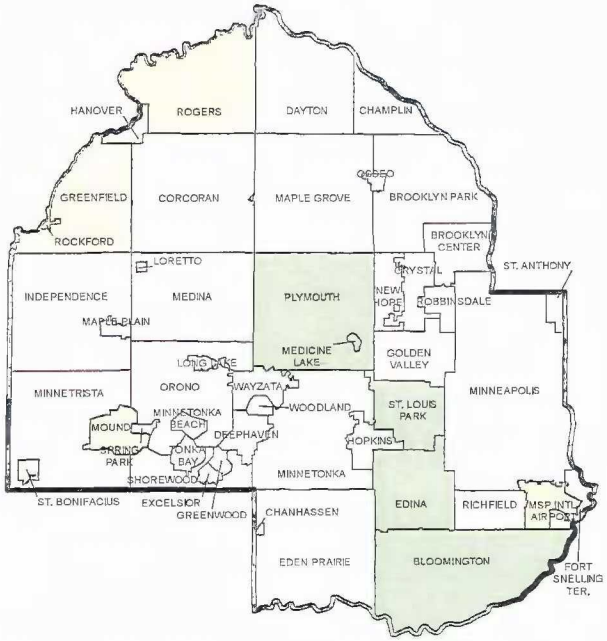
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Tobacco Retail Sales Ordinance Restrictions

Hennepin County

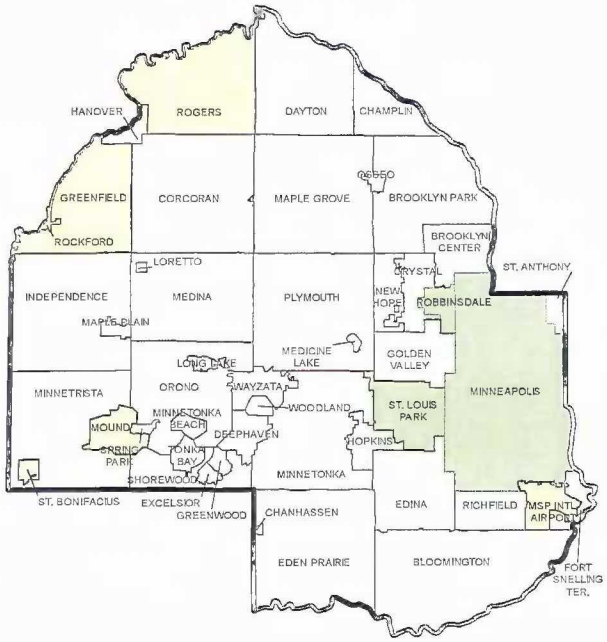
Hennepin County Public Health

Tobacco 21 (T21)



Municipalities prohibiting the sale of all tobacco products, including electronic cigarettes, to persons under the age of 21.

Flavored Tobacco



Municipalities prohibiting the sale of all flavored tobacco products, including electronic cigarettes.

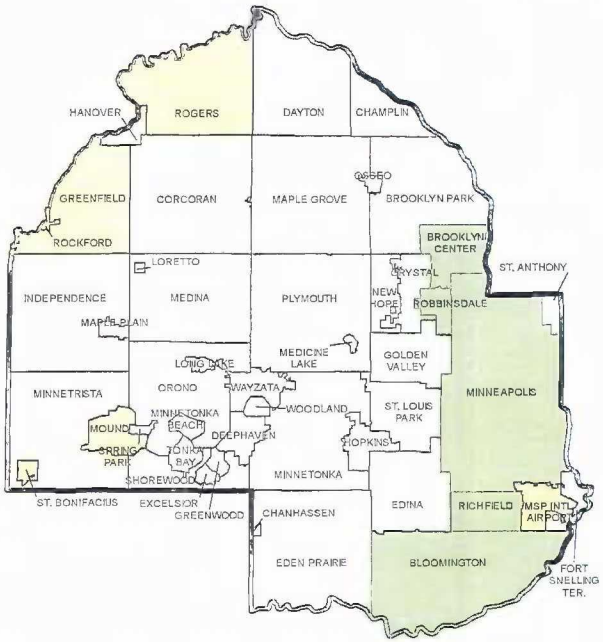
Notes

Minneapolis:
Currently exempts menthol, mint and wintergreen flavors. The menthol exemption has been removed, effective August 2018. Adult tobacco stores are allowed to sell all flavors; and liquor stores are allowed to sell menthol, mint and wintergreen.

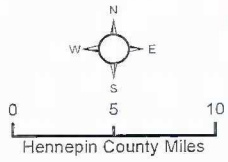
Robbinsdale:
All flavors except menthol, mint and wintergreen will be restricted. Adult tobacco stores will be exempt from all restrictions.

St. Louis Park:
All flavors except menthol, mint and wintergreen will be restricted (implementation May 2018).

Minimum Cigar Pricing & Packaging



Municipalities prohibiting at minimum: the sale of cigar packages containing less than 5 cigars and/or sets a minimum cigar price of at least $2.10 per cigar in a package of 1-5 cigars with the minimum price determined after any price promotion or discount.



Legend

- Municipalities with the tobacco restriction
- Municipalities where the County is the Tobacco License Authority

Supported by the Statewide Health Improvement Partnership, Minnesota Department of Health.

Map Published: January, 2018

Map Disclaimer: This map (i) is furnished "AS IS" with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this map.

Work Session Agenda Item No. 2

MEMORANDUM – COUNCIL WORK SESSION

DATE: May 14, 2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Community Development Director

SUBJECT: Park Dedication Fees

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding the adoption of Park Dedication Fees.

Background:

A city's authority to charge park dedication fees is specifically authorized by State Statute. Minnesota prohibits cities from charging impact fees, with the exception of park dedication fees. The purpose of the exception is in recognition that more people, whether residents or workers, in a community mean more demand for parks, trails, and open space. Cities may charge a certain amount to the developer or property owner which is commiserate with the anticipated demand that a particular development will place on the city's parks and recreation facilities.

How much a city may charge, and under what circumstances, is clearly laid out in State Statute. Cities may charge park dedication when a property is being subdivided or replatted to create more intense land uses. The fee may be in the form of land dedication, cash contributions, or a combination of both. The rules regarding how park dedication fees are calculated have changed in the last few years. Most cities charge on a per unit basis, based on the number of housing units in a proposed development, and on a per acre basis for commercial development. According to Statue Statute, this is no longer permissible. The fee must be based on the fair market value of the land at the time the subdivision is occurring.

Park dedication fees can only be spent on 1) new parks, open space, and trail amenities based on the approved park system plan; 2) redevelopment or rehabilitation of existing parks, open space, and trail facilities; or 3) debt service in connection with previous improvements to the parks, open space, and trail facilities. Fees cannot be used for ongoing operations or maintenance of parks or recreational facilities, or for any other general fund purpose.

Policy Issues:

Brooklyn Center has not historically charged park dedication fees on new development. As the City faces redevelopment in the coming years that will likely increase the number of people and employees in the community, it may be a good time to consider creating a park dedication fee.

While the fee is set, and would apply to all subdivisions of land equally, through a PUD negotiation a city could choose to increase or decrease the park dedication fee in exchange for other concessions or amenities from the developer.

Staff is seeking direction on the following items:

- Does Council want to explore adopting park dedication fees?
- If so, what questions, or concerns, does the Council have that would need to be addressed prior to action being taken?

If the Council directs staff to proceed with exploring this amendment, Staff recommends having the Parks and Recreation Commission review the item and make a recommendation to the City Council.

Work Session Agenda Item No. 3

MEMORANDUM – COUNCIL WORK SESSION

DATE: May 7, 2018

TO: Curt Boganey, City Manager

FROM: Tim Gannon, Police Chief

SUBJECT: Median Safety Initiative

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding the creation of an ordinance that addresses pedestrians standing on roadway medians for prolonged periods of time.

Background:

In recent years, Brooklyn Center and other cities throughout the nation have seen a substantial increase in pedestrians occupying medians for extended periods of time. The purposes of occupying medians does vary from protesting, panhandling, or advertising. Regardless of the reason, it has had an impact on public safety for both pedestrians and motorists alike. Historically, medians were created to offer a barrier between traffic traveling in opposite directions while supporting a traffic light. They were also created to allow pedestrians a safe temporary resting spot to await a light change if unable to cross a roadway in a single traffic light rotation. With those original purposes in mind, medians were created to be raised above the roadway and usually narrow in width.

With the increase of (most notably) panhandling activities on medians, there have been several attempts to regulate that specific activity by various elected bodies. Most attempts have failed, as the Courts have ruled those regulations violate First Amendment Rights of Freedom of Speech. Those previous attempts have focused on a specific behavior and may have allowed other activity in the same space or have been overly broad in their restrictions. Lastly, Courts have been opposed to creating new laws or ordinances to address a concern that may already be addressed by current laws.

As staff have continued to research this topic and have assessed regional and national Court challenges, it is believed a narrowly focused ordinance that is content neutral and public safety focused could survive legal challenges. During research, it was clear there are no current laws or statutes that could be used to address this public safety concern.

MEMORANDUM – COUNCIL WORK SESSION

Attached is just one of many e-mails I, as the Police Chief, have received from concerned citizens this past year:

Thanks much for the response. I would encourage you to work with the city council to pass an ordinance making it illegal to stand in intersection medians for more than the length of time for the crosswalks to cycle. Pedestrians permanently positioned in these medians are a road hazard and distraction to drivers that puts everyone at unnecessary risk. There are ways to resolve the issue by using legitimate reasons to adjust panhandler behavior.

Policy Issues:

Does the City Council support further analysis and research on a possible ordinance regarding median safety?

Does the City Council have any specific concerns or questions regarding median safety after having been presented with the PowerPoint presentation?

Strategic Priorities:

- Safe, Secure, Stable Community

Work Session Agenda Item No. 4

MEMORANDUM – COUNCIL WORK SESSION

DATE: May 14, 2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Community Development Director

SUBJECT: 2040 Comprehensive Plan – Joint Work Session Schedule

Recommendation:

It is recommended that the City Council review the proposed meeting schedule for the 2040 Comprehensive Plan process and provide direction to staff on workable meeting dates.

Background:

The City is in the process of updating the Comprehensive Plan. Due to the truncated timeline for the project, and limited budget, it was determined that the Planning Commission would act as the primary task force to conduct the update. The Planning Commission has dedicated one meeting a month for the past several months, and will continue to do so through the summer, in order to complete their work.

In order to keep the Council up to date on the process, and to ensure that the Planning Commission's work is in keeping with the City Council's goals and objectives, staff is recommending two joint work sessions between the Planning Commission and the City Council that will allow time to go over the plan, get input from the Council, and update the Council on the status of the project.

2040 Comprehensive Plan Meeting Schedule:

The Planning Commission will continue to meet and provide input to staff and the consultant on drafting the plan. In addition, staff will be meeting with the Housing Commission, the Parks Commission, and the Multi-cultural Advisory Commission in May to engage them in the process.

It is anticipated that by the end of June much of the document will have been drafted, draft goals for each chapter will have been identified, and the Planning Commission will be beginning work on the Implementation Chapter. This will be a good point to engage the City Council on the process to date, as well as the identified goals and possible implementation methods. Staff is recommending that a joint work session be held on **July 9th from 5-6:45 pm**, prior to the regular meeting, in order to accomplish this task.

Staff is requesting that a second joint work session take place on **August 13th, again from 5-6:45 pm**, prior to the regular meeting. The purpose of this meeting will be for the Planning Commission to present the final draft to the City Council and obtain final input prior to the Planning Commission holding the official public hearing for the document on August 30th.

Assuming the Planning Commission recommends approval, the final draft plan would go to the Council for approval on September 10th. This would then trigger the 6-month surrounding jurisdictional review period.

A final public hearing and adoption of the plan would then occur in April after the 6-month review period has ended.